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Legislative Assembly of Ontario

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Official Report of Debates (Hansard)

Monday 3 June 1991

Standing committee on administration of justice

Subcommittee report

Highway Traffic Amendment Act
(Volunteer Fire Fighters), 1991

Conflict-of-interest guidelines

Assemblée législative de l'Ontario

Première session, 35^e législature

Journal des débats (Hansard)

Le lundi 3 juin 1991

Comité permanent de l'administration de la justice

Rapport de sous-comité

Loi de 1991 modifiant le Code
de la route (pompiers auxiliaires)

Lignes directrices
sur les conflits d'intérêts



Chair: Drummond White
Clerk: Lisa Freedman

Président : Drummond White
Greffier : Lisa Freedman



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Monday 3 June 1991

The committee met at 1552 in room 228.

SUBCOMMITTEE REPORT

The Vice-Chair: I call this meeting to order. This afternoon, we will start with the subcommittee report:

"Your subcommittee met on Wednesday 29 May 1991 and agreed to the following.

"1. That public hearings on Bill 7, An Act to amend the Powers of Attorney Act, and Bill 8, An Act respecting Natural Death, be postponed.

"2. That the committee commence clause-by-clause consideration of Bill 87, An Act to amend the Highway Traffic Act with respect to Volunteer Fire Fighters, on Monday 3 June 1991 and also that the committee continue consideration of the Premier's conflict-of-interest guidelines.

"3. That the Chair be authorized to present the budget in the amount of \$384,588 to the Board of Internal Economy."

Agreed to.

HIGHWAY TRAFFIC AMENDMENT ACT (VOLUNTEER FIRE FIGHTERS), 1991

LOI DE 1991 MODIFIANT LE CODE DE LA ROUTE (POMPIERS AUXILIAIRES)

Consideration of Bill 87, An Act to amend the Highway Traffic Act with respect to Volunteer Fire Fighters.

Étude du projet de loi 74, Loi modifiant le Code de la route relativement aux pompiers auxiliaires.

The Vice-Chair: I call Bill 87. Any questions, comments or amendments?

Mr Mills: I had to go to the whip's office; I am getting some documentation, apparently, being faxed over to me about this and I would just like to have that before me, if we could just take a couple of minutes to get it.

The Vice-Chair: You move to recess for five minutes?

Mr Mills: Yes, and I will go and get the stuff and I will be back.

The committee recessed at 1554.

1605

Mrs Fawcett: I want to thank everyone again for supporting this bill. It was indeed a pleasure to get all-party support, and I think the volunteer firefighters appreciate also your support and recognition. I am very pleased too that it has been brought before this committee so quickly and I do look forward to it going into the House for third reading and proclamation.

Anything we can do to assist the volunteer firefighters in their response time is really something we should be looking at, and certainly the designated licence plates would be a start in the right direction. We know the volunteer firefighters are very important to our province; 80% of fire departments are serviced by volunteer firefighters. I

appreciate the fact that this has come before the committee and hope you will see that access to the scene by these people as quickly as possible would indeed help them. We know the benefits to the municipalities and to people in general, to educators, by this terrific group bears our worthy consideration, so I would certainly hope we can successfully go through the clause-by-clause, and I appreciate the time to do this.

Mr Mills: I have a little problem in that I can remember when we went through the debate with your bill, I had some reservations about it based upon some information from the Solicitor General's office. I have been trying to get that information now. I would not want to go through clause-by-clause without getting the advice I think I should have for this, because I know we had some concerns about this.

Mrs Fawcett: Around what area?

Mr Mills: I am trying to think.

Mrs Fawcett: Would it have been the speeding? Because this is in no way a licence to speed or anything; it is just recognition solely.

Mr Mills: I understood there were some discussions in process at the Solicitor General's office about some sort of things they were doing with the volunteer firefighters. I am trying to think what I said at the committee. I know I supported it. I think there were some difficulties that had to be worked out, and possibly this is the place to work them out through the amendments. Having said that, I am having difficulty getting hold of someone. They are faxing some information over now.

Mrs Fawcett: The week before the bill came into the House, I know the volunteer firefighters and the firefighters had a meeting in Markham. A resolution from them came on the floor very much like my bill, so certainly they are in support of this bill.

Mr Mills: I could not agree with you more. The problem is that until I arrived here this afternoon I did not know this was being debated today; I thought we were speaking on the conflict-of-interest guidelines.

The Chair: You received a notice.

Mr Mills: No, I did not. That is the trouble. That is why I am trying to get at now.

Clerk of the Committee: Just to clarify, there was a package sent to everybody's office that everybody's office signed for on Friday explaining what was on the agenda today: a copy of Norm's letter, a copy of Bill 87 and background material.

Mr Mills: The problem is that I was not there Friday and I have not got it.

Ms Gigantes: I could find nothing.

Mr Mills: You got nothing? No.

Ms Gigantes: Not to my knowledge, unless I got it through the mail.

The Chair: I received my information on Thursday, I believe.

Mr Mills: I feel somewhat ill at ease going through this without having that.

The Chair: If there is a question around preparation, I have certainly had adequate notice.

Mr Fletcher: I did receive mine at my constituency office on Friday. It was faxed down from my office. I was one of the lucky ones, I guess.

Do volunteer fire people have flashing lights or something already? Do they already have that?

Mrs Fawcett: They did have an amber and white light, but it is not manufactured any more so obviously they do not have access to those lights. There are some volunteer fire departments which do use a green flashing light, but that is solely on their own discretion and really the public is not aware as to just what this light means. That might be something we can look at further down the road, but this would at least open the door to assisting the volunteer firefighters in that respect.

Mr Fletcher: Is one of the purposes of this bill to assist the public in knowing who is a volunteer fire person?

Mrs Fawcett: That is correct.

Mr Fletcher: So it would have to be advertised wherever there was a volunteer fire department that someone with this licence plate is a volunteer fire department person.

Mrs Fawcett: That is correct. I think we would work in conjunction with all of the fire departments to get an idea of the kind of licence plate they think would be suitable, along with the ministry, of course. That is why I left it open, so that those kinds of things could be worked out to the satisfaction of everyone involved.

Mr Fletcher: I am just wondering, is there not something that would be better than a licence plate, something more visible for people to be able to visually see that it is a volunteer fire person? Licence plates are hard to read sometimes.

Mrs Fawcett: Right now some departments also use stickers, which of course are not able to be seen. They really are not. The firefighters themselves seem to think that a licence plate would certainly be a start in the right direction. Fourteen states in the United States use this now, they are looking at it, I believe, in Nova Scotia and BC and it seems to be the licence plate that they request right now.

Mr Fletcher: This would go along as far as public safety is concerned, when a person is going to a fire or an emergency call?

Mrs Fawcett: Right.

Mr Winninger: Just to supplement what Mr Fletcher asked you, do volunteer firefighters use sirens at all?

Mrs Fawcett: No, not in their cars to get to the fire-hall or to the disaster. Their own cars are not equipped. Certainly once they get there, then they can get on to a fire engine or whatever and then of course they have the sirens. Right now, their cars are in no way designated to say this

is a volunteer firefighter trying to get to the disaster as quickly as possible. In rural Ontario this is really important, simply because in rural Ontario fire departments are really made up of volunteers. It was just a way to really assist those people.

Mr Winninger: Second, do you know if regular firefighters use any kind of special licence plate?

Mrs Fawcett: No, not yet. Most of the regular firefighters are on duty at the firehall and so they are already there when the call comes in. They just board the engines and so on. I would certainly be open to include regular firefighters as well. There is no problem with that.

Mr Winninger: I guess the engines do not need special licence plates because they are quite easily distinguishable.

Mrs Fawcett: They already are designated. They are visible and certainly you do hear them.

Mr Mills: During a debate on this private member's bill, I believe the Minister of Transportation spoke to it and he was in favour of it.

Mrs Fawcett: Yes, he was.

Mr Mills: But I can clearly recollect his mentioning some problems about the issuing of the licence plate and the difficulty of putting something like this into the system. Having heard what he said and remembering it, why is there not someone, Mr Chair, from the Ministry of Transportation here? Why do we not have some input on this? Because to pass this, and we say we are going to authorize the issuance, without knowing the ramifications of that when I think the minister said that was a concern—

Mrs Fawcett: But as you can see by the bill and what it says, it is left wide open so that the real concerns can be addressed by the ministry. Certainly the second part of the bill addresses the fact that if a volunteer stops being a volunteer, we get them back again. This way, it could be up to the individual firefighter, it could be up to the municipality, it could be up to the ministry. This is just to allow this to happen, however it happens, that they can be given the opportunity to have a licence plate.

Mr Mills: I had some discussion with the deputy minister over there about this issue and I got the feeling from him that there were some different sort of things in the works based upon that resolution from the convention of firefighters. I think one of the things they were talking about or discussing was in fact emergency lights.

I am really reluctant to go ahead and discuss anything until I have some input from those people who, when that private member's bill went through, expressed some very serious concerns. One was the Ministry of Transportation. The Solicitor General's office also asked me to voice some reservations about it. I think I have someone coming over from the Solicitor General's office momentarily with some sort of position that hopefully I can go for. I am not here to obstruct this or anything at all, Mrs Fawcett; I am just here to protect what I thought were concerns when the bill was presented in the House.

Mrs Fawcett: But there is no reason that later you could not have an amendment to say that a light, any kind of light, could be added.

Mr Mills: But the problem I have is the bill is authorizing the issuance of special licence plates. I detected from the Minister of Transportation that it was not just as easy as that either. That is why I would like to hear from him.

Mrs Fawcett: Yet he did speak in favour of it, so there must be ways that he can—

Mr Mills: Yes, but I am wondering.

The Chair: Seeing as we have encountered this difficulty, that Mr Mills is concerned that the Solicitor General's office and the Ministry of Transportation have not been apprised of our discussion today and he is attempting to assure that representation as soon as possible—however, there seems to be substantive support for the bill that I am aware of—I am wondering if we might stand it aside for perhaps one hour, Mrs Fawcett, until we have had that representation, still to deal with it this afternoon, though.

Mr Mills: I would just like to make it clear that I am not adopting any partisan position or anything.

The Chair: Would that be suitable or acceptable?

Mrs Fawcett: Mr Elston did have his hand up. I wondered if you were going to recognize him?

Mr Elston: If I could speak just for a couple of minutes, all of this stuff, having gone through some of the things, the New Democrats as government members, who are now looking at providing some protections for the ministerial interests that they do represent, and I appreciate that, know that if anything is of real importance what happens is the minister gets this big huge batch of stuff and even the bureaucrats start looking to see when this stuff starts coming up on the decks of the committees.

I suggest that you have raised some interesting issues, Mr Mills, but none of those is excluded by the two provisions, which are really quite brief and to the point and only say you can have a licence plate as long as you are a volunteer fire department member and if you are no longer a member you have to give the plate back. That does not preclude the use of some kind of signal light or warning light to be attached to the car if they deem that as an appropriate activity. In fact, in some cases there are ways well within the regulation-making authority in which it could be done, even outside legislation.

I am not sure that if you wish to wait for the Ministry of Transportation or the Ministry of the Solicitor General to come and make their formal presentations some person will not show up and say, "We're really not prepared to deal with it today, but there are some concerns in the department." If that is all the stuff we are getting, I would be somewhat concerned inasmuch as the bill itself has gone through second reading. People are following these things. I know the legislation-watching groups that are in all the ministries usually follow this stuff if it affects them anywhere closely at all. We should basically, I believe, proceed to deal with it. I am not sure what else they are going to tell us, except about the warning lights or about something else, but nobody, it seems to me, has said the reason why a licence plate should not issue.

For me, I think we might as well just do it and go. I know it is up to the government House leader again, or

others. If we have to move into committee of the whole House to deal with it, we can do that, or it can be, again in terms of scheduling, sent for third reading. There may be some consensual problems or consent requests made. That is often the way things work, and I would just prefer if we went on. We may be waiting all afternoon.

1620

The Chair: I appreciate that, Mr Elston, but what I am concerned about, very simply, is that we could be debating a moot point for an hour or so, simply for the matter of delay until consultation occurs, and if we were to set it aside and still deal with it this afternoon, we could have much more productive use of our time, having the vetting from the Solicitor General's department. I do not think it is the intent of anyone here to delay the discussion of the bill more than an hour or so.

Mr Mills: Not at all. I am sure I speak for all the members of the government side. We are not here this afternoon to cause any delay or play games with this. It is just that I have some severe reservations on going ahead with it, because I spoke to the assistant deputy minister and one of the things he said to me was, "We could have some problems with the regular firefighters, because they drive their cars and they are not always at the fire station and they might take umbrage at the fact that we are looking after one group." Those were some of the things he said, and I would ask your indulgence. The lady in my office is actively pursuing this matter now and I am sure that forthwith she will be here, and I would appreciate that.

Mrs Fawcett: I have no objection whatsoever to including all firefighters, really, in the whole thing.

Mr Mills: Yes, but that was one thing that he said.

Mrs Fawcett: That is absolutely—

Mr Elston: Most of those guys are—

Mrs Fawcett: Yes, they are, but that was included in their resolutions.

The Chair: My last two homes have been opposite firefighters, presently opposite a captain, and their licence plates are personally nominated, "Captain '82," that was when he made captain sort of thing. They seem to take a certain relish in these nomenclatures.

Mrs Mathysen: I must say that you are positively clairvoyant in your remarks. I was simply going to say that I would feel better if we had some clarity from the Ministry of Transportation. There may be some wisdom that they have that we do not regarding this. I think what is paramount here is the safety of the volunteers, so I would support Mr Mills in his motion to set this aside until we have the information we need to make a good and informed decision.

The Chair: Can we have an agreement that we will stand it aside for no longer than an hour?

Mr Elston: Mr Chair, before you do that, just so that I am not mistaken, Mrs Mathysen just mentioned getting information from the Ministry of Transportation. Are we not waiting for the Solicitor General's material, as I understood from Mr Mills? Are we also going to step it down

until we get some information from Transportation? That was not what I understood from Mr Mills.

Mrs Mathysen: Did Mr Mills not say the Ministry of Transportation?

Interjection: No, he said the Solicitor General.

Mrs Mathysen: I am sorry. That is my mistake. Pardon me. The Solicitor General then.

The Chair: So we shall resume discussion of this bill no later than 5:30.

CONFLICT-OF-INTEREST GUIDELINES

Resuming consideration of the Premier's conflict-of-interest guidelines.

The Chair: We are now moving on to conflict of interest. Where are we here? If you would take out of the materials that were circulated to you, the document dated 27 May is an update of the draft report that Susan Swift prepared. Basically we have gone through the preamble, the preface and purpose in regard to conflict of interest and are now on page 4, which starts with, "The committee therefore recommends that the guidelines be adopted."

We had agreed to go over these items paragraph by paragraph. This is page 4 of the document, 27 May 1991, the draft report, conflict-of-interest guidelines. The only difference between this and the earlier one should be the earlier changes and underlining, crossing out from our last discussion. We are starting with the second line down, which is "Divestment vs Disclosure."

Mr Mills: Did we not reach some consensus on how we were going to do this? We thought the way we were going on would take from now until Christmas. Why do we not do some reading and then sort of decide?

The Chair: I am sure we can read it quietly to ourselves. Do we have an alternative suggestion?

Mr Mills: I was under the impression that we were going to move these sections in chunks, not line by line as we are doing here.

The Chair: Was that a serious suggestion?

Mr Mills: At the top of page 4 it says "The committee therefore recommends that the guidelines be adopted." Why are we going over that? Is that not a statement in itself?

The Chair: We are not. That was one of the additions we came to during our last discussion.

Mr Mills: So that does not mean anything then.

The Chair: No. We are starting with "Divestment vs Disclosure" and the first paragraph under that.

Mr Harnick: Are you saying now that the line that says "The committee therefore recommends that the guidelines be adopted" has been accepted by the committee?

The Chair: Yes.

Mr Harnick: With respect, that statement does not mean a lot. Let me defer to the clerk for a moment.

Clerk of the Committee: The process we went through last time was that we started to go paragraph by paragraph, the changes and what the committee decided were put in, and that is what Susan wrote in terms of the

underlining. We have not yet gone back to clarify, to see if the committee agrees with what Susan wrote. In essence, the majority decision of the committee was, "The committee therefore recommends that the guidelines be adopted." We have not totally precluded going back. There is a point where Susan writes something and we have to go over it one more time before we finalize the report.

The Chair: This is the second draft.

Clerk of the Committee: Correct.

Mr Harnick: The very crux of that statement begs the question, "The committee therefore recommends that the guidelines be adopted," but what I say is, adopted as what? Are they to be adopted as guidelines, separate and apart from legislation? Are they to be adopted as guidelines and are they to be put into the conflict of interest act? That statement, as bald as it appears, does not mean anything. I suspect at that particular point in the document that statement should not appear. It should probably appear in another place as a conclusion, with some justification and elaboration, but to merely put that statement there is totally meaningless.

1630

The Chair: I think you are quite right, Mr Harnick. However, I would suggest that before we go back over what we had agreed upon for a second draft, we go through the rest of the report. As a committee we will have to adopt the final draft so we have the opportunity of amending that or whatever we have agreed to at this point, in terms of how it fits in continuity and congruity with the rest of the materials.

Clerk of the Committee: In terms of report writing, it was decided by this committee: "The committee therefore recommends the guidelines to be adopted." They have been adopted by the committee. That was a vote and the committee did decide when they started this so they would not keep going backwards. Just to clarify what I said before, we have to go backwards and doublecheck what Susan did. But in terms of redebating the sections that we have already debated, it is probably open to a good argument that the committee should not be going backwards. The committee can decide that they want to do that, but when we started, it was clearly put on the record that once the committee finished a section and adopted its recommendation, it would not go back and redebate it. The report has not been adopted yet, but that was what was put on the record at the first meeting.

Mr Harnick: I only point out that this particular statement is bald and meaningless in that particular place. It really confuses the issue. But if that is what the committee decided, I guess there is nothing we can do about it at this stage.

Ms Gigantes: I have no objection to your proposal, Mr Chair, but it does not seem to me that this is out of place here because, as I understand it, the committee was looking at the question: "Are the guidelines necessary?" The answer is that the guidelines should be adopted and then you decide how they are adopted, which is the next section. That is the question, I guess, we are about to enter.

Mr Harnick: "Divestment v Disclosure" is part of the substance—

Ms Gigantes: All right, over here on page 6, "Guidelines or legislation." So we will be coming to it momentarily, as we say on this committee.

The Chair: Can we move on then to at least the first paragraph of the next section? Mr Winninger, you had your hand up a few moments ago.

Mr Winninger: Yes, Ms Gigantes touched on the reference on page 6 that I was going to mention.

Mr Elston: I am sorry, I was a little slow there, but I am at a bit of a disadvantage because I did not sit on the first drafting of this. I was looking to see if it talked about "the guidelines" or whether we should be saying, "The committee therefore recommends that guidelines be adopted over legislation." Is that more correctly the result of that first debated section, rather than saying "the guidelines," which I believe would answer the question about whether you have divestment or disclosure or otherwise? But I suspect you would say "guidelines be adopted" if it is just talking about the principle of guidelines and you could strike "the." I do not want to confound the issue.

Mr Harnick: With a small g, right?

Mr Elston: I do not even care whether they are small g or big G, but "the guidelines" that we are talking about now are interesting.

Ms Swift: Just as a stylistic comment, I have used capital G throughout when I refer to the guidelines, as a short form, for referring to "the Premier's guidelines" because that is how the reference was made to the committee. So the committee might want to consider that.

The Chair: Are we moving on or are we discussing guidelines or "the guidelines?" Yes, discussion on the first paragraph.

Interjection.

The Chair: The first paragraph after "divestment versus disclosure." The second paragraph; is everyone all right with it?

Mr Elston: Basically, is it not clear that when you go through pages 4 and 5, it is really a recitation or a compilation of material? Again, I did not listen to all of the presenters, with the exception of one whom I heard speak at length and in rather great detail while I was sitting in the witness chair. After that, I was not able to attend the hearings. So long as this is compilation of what was said, I do not think there can be too much debated on that content. Where you end up having some discussions is probably at the top of page 6 where it talks about discussion and recommendations, I presume.

The Chair: There could still be additions or corrections to the printed material. There are, it seems, none to the first three paragraphs. The fourth: Any changes before the bottom of page 5?

Mr Harnick: It seems to me the conflict commissioner made certain very pointed comments about a great many of the aspects of divestment. He made comments about the use of a trust as being the appropriate vehicle,

and he made comments, I believe, about the definition of undue hardship. It seems to me that some of those comments he pointedly made should be included in this section. I do not have the Hansard in front of me, but I certainly recollect—

Ms Swift: With respect to the trusts you mention, on page 6, under section 15, my recollection is that the commissioner said the terms were vague and meaningless, and I have included that. I think the summary of recommendations and comments I prepared for the committee included the comments of the commissioner and most of those have been included in one way or another in the report. Certainly, the comments that the guidelines were draconian appear on, I think, page 4.

Mr Harnick: Should we not attribute some of those comments to Justice Evans?

Ms Swift: The committee may wish to.

Mr Harnick: Because I think those are particularly important comments he made in an area where he was deemed to have particular expertise and knowledge. I think this document should reflect specifically his comments, particularly because he is a neutral individual. I think the document should have reference to that.

The other thing I cannot see here in a fast read are some of his comments about trusts, because he, my recollection tells me, was not inclined to take the position the final paragraph on page 5 indicates.

Ms Swift: That is true. I missed this when I mentioned this before, but on page 15 I have a section on trusts, under section 16 of the guidelines. That may not be as explicit as to his comments as you might like, but I do deal with that section.

The Chair: We have another basic issue here. Mr Harnick is raising the question of whether the witness should be specifically identified, particularly Commissioner Evans. I think that is a significant aspect in terms of our direction to Susan. Are there any comments on that issue?

Mr Winninger: I guess I agree with the thrust of Mr Harnick's remarks. I would say, though, that if other witnesses reiterate or Chief Justice Evans reiterates what other witnesses have said, surely we do not need to separate his comments out from theirs. Where it says, "those witnesses" or "other witnesses," I do not think we need to segregate out Chief Justice Evans's comments.

If, on the other hand, Chief Justice Evans makes comments that are distinct from those of others and noteworthy, I think perhaps his name should be there just to highlight the fact that he, with all of his experience, has said this. That is all.

Mr Harnick: I can live with that.

Ms Swift: Just to clarify, attributions will be made with respect to the commissioner only, then, not to other witnesses as well.

1640

Mr Winninger: My only point was, if the Chief Justice says something that other witnesses have said, before or after him, why segregate his name from the others? If

he says something that distinguishes his observations from others, that would be an appropriate circumstance to reflect his name.

Mr Harnick: Certainly we all know that he was the one who came and said the guidelines were draconian, and that was specifically his terminology, so I suspect we would be in agreement that that should be attributed to him. My recollection is that he also indicated, in terms of trusts, that he thought they were a good vehicle. In this section we have a comment that trusts were not deemed to be a good vehicle. I think we should have his comment about trusts specifically, and also that he went on and indicated that trusts should be paid for by the government, rather than the cost being borne by the individual, as has been the case in the past.

Mr Morrow: I am really glad that Mr Harnick raised the trusts question. We feel that Judge Evans was correct when he said that a trust can never be a blind trust. We therefore feel that the disclosure alone cannot suffice, but rather must be accompanied by divestiture. We therefore further recommend that the divestment section remain as an integral part of the Premier's guidelines.

The Chair: So you are suggesting a couple of things: one, highlighting that Mr Justice Evans made that reference to blind trusts that have many holes in them, or eyes in them; and also the recommendation that divestiture is an integral part, a central part.

Mr Morrow: Yes.

Mr Harnick: I do not recollect that that is specifically what he said, but if you are telling us he agreed with divestiture but also called it draconian, I find that somewhat inconsistent. What I am saying is that, rather than argue about this line by line, we leave it to Susan to go through that aspect of the evidence and to cull out the significant areas that Justice Evans commented on and provide us with a synopsis of those within this section.

Mr Fletcher: I have no problem with what Mr Harnick is saying, except that the only thing I can remember Judge Evans being specific on was the "draconian" statement, and I have no problem with that being attributed to Justice Evans. Even when it comes to trusts, he was not the only person who spoke on trusts and what trusts were. When it came to a lot of other things, such as undue hardship, he was not the only person who spoke on that. When it came to draconian, that was what is attributable to Justice Evans. I have no problem with that phrase being attributed to him, and if Susan would like to go through and make that, that is fine, but along with what David was saying, I do not think every statement that the judge made should be taken out and just attributed to him alone.

Mr Harnick: I am not saying that. I am saying that we leave it to Susan to review that aspect of the evidence and cull out those areas of significance that he commented on in somewhat of a more expert and independent way than the other witnesses. We had witnesses who obviously had party affiliations. The beauty of Justice Evans's evidence is that it was independent evidence, particularly based on experience in dealing with conflict-of-interest matters, and certainly that makes him as a witness some-

what more reliable than witnesses who came here and had a political affiliation and a political partisanship.

Mr Elston: Just a minute.

Mr Fletcher: That is right. Just a minute is right.

Mr Elston: With all due respect.

Mr Harnick: With all due respect to Mr Elston, who did appear as a witness.

Mr Fletcher: But again, that is part of my objection also. We did have witnesses here who are no longer in the political spectrum—maybe they still belong to a party—and I valued their testimony. Mr Sweeney, who had the respect of every person sitting in this Legislature, every person in his riding and across the province, I consider to be non-partisan, only because of the kind of person I know Mr Sweeney to be.

Again, I am not sure about Justice Evans and what his political affiliation is, if he has one or if he does not. You know, there may be something there. The only thing I remember Justice Evans saying that was any different than any of the other witnesses—if you go through the transcript of these—is the "draconian" statement and I have no problem with that. If Susan wants to go through and do that, that is fine, but let's not just take every statement that Judge Evans said just because he was a third party. If you go through and look at it, a lot of what Justice Evans said and a lot of what the Liberal people were saying is exactly the same. I have a problem with that.

Mr Harnick: Why do you have a problem? Are you doubting the independence of the Conflict of Interest Commissioner?

Mr Winner: We are just for zero tolerance.

Mr Fletcher: That is right.

Mr Harnick: And we have seen how that has worked so far.

The Chair: We have injunctions with regard to quotations or the orientation. Does that seem to be agreeable?

Mr Fletcher: I trust Susan.

Mr Harnick: I do not want a debate line by line, or what the right position or the wrong position is, but if Susan can provide us with some of those comments, we then can come back here and go through them and vote on them if that is the way we do things here.

The Chair: Okay. Can we move on now to recommendations? Mr Carr.

Mr Carr: I have a question with that. I was reading over some of the material that Lisa had given us here, a letter from Judge Evans. This is a question for Susan. I was wondering how you took that information and sort of condensed it down. What was the process? How did you go through that?

Ms Swift: The material you are referring to there was provided, I think, last week. It was after I had prepared the report, but I left a space for it. On page 16 where it referred to amendments to the conflict of interest act, if you recall, Judge Evans made recommendations with respect to the guidelines and a fairly detailed list of recommendations with respect to amendments to the existing legislation. I

think the letter you have there is in response to Mr Harnick's request to the commissioner to provide a list of the guidelines, to cull from the guidelines what provisions he would include in the existing legislation. So I have not dealt with those independently at all.

Mr Harnick: I note for Mr Fletcher that I have just received a letter from Justice Evans to Lisa Freedman and on the second page of that letter he makes certain comments about trusts. He refers to some amendments he would like to see, one of which would be that there should be more discretion for the commissioner to determine what businesses should be placed in a trust, and there should be provision for a trustee to consult with, or seek an opinion from, the commissioner with respect to the operation of the trust. Certainly, his position with respect to trusts, if that is any indication, is somewhat different from what the member—and I believe it was Mr Morrow earlier—quoted. So I think it is well worth having Susan review that material and provide us with some accurate synopsis of what Justice Evans said and what his position is and then we can review it.

Ms Gigantes: I have been given background information which has quite a substantial amount of information about that evidence, that testimony to the committee. I am wondering if it would not save time if members of the committee referred to that rather than asking for another report. I think that has already been pulled out.

Mr Harnick: Pulled out and put into the document we are now reviewing as the report?

1650

Ms Gigantes: No. Now there, Mr Chair, I would like to ask a question. Are we here to highlight Commissioner Evans's views of what should happen or are we here as a committee to give our own report and what we believe should happen?

I think, with all due respect for Justice Evans's experience, much of what he gives that is most—how can I say it—charismatic, in terms of contributions to the discussion, is a matter of opinion. I think in this we have to weigh all opinions. I certainly have no objection, in certain sections where it seems particularly noteworthy, to noting what he said and saying who he was, but I do not think we should allow his evidence to write the report, as it were.

Mr Harnick: I am not saying that. If I have given that impression, I have not intended to give that impression. But there were certain salient areas where he provided us with evidence based on his experience and knowledge of the area, and all I am saying is to cull that from the mass of material and include it in the report. In fact, the member for London South agrees with me.

Mr Winner: To an extent.

Ms Gigantes: I agree with you to an extent.

Mr Harnick: That is fine. I mean, let's see what it looks like after it is done and then argue about it, rather than waste time now. You are going to win anyway; you have more members on the committee than the opposition does.

Ms Gigantes: It just seems like a circular motion, Mr Chair.

The Chair: Mr Morrow, I think, made a suggestion regarding the recommendations for the committee. Can we move on to a discussion of that recommendation, and if so, can we please have a repetition of that suggestion, sir.

Mr Morrow: Do you want me to read them in again?

Mr Elston: On a point of order—I am not exactly sure which order you want to take this in—maybe we should just resolve what has happened here so that I understand, when Mr Sorbara asks me to brief him on what happened today, whether we are going to highlight some more of Judge Evans's testimony or we are not. Let's just finish off that end before we move on to deal with Mr Morrow's suggestion.

His is a very specific recommendation which has been prepared for consideration here today, but the answer to the question posed by Mr Harnick, at least partially supported by the member for London South and partially but not totally supported by the member for Ottawa Centre—I think she is looking more for a balance perhaps, or whatever—I want to know what we are doing before we get on with talking about Mark's stuff. We have to know what is going to happen and whether Susan is going to be left sort of to freehand some of this stuff.

Mr Fletcher: Mr Chair, in my opinion the Premier's statements are just as important as Justice Evans's statements and therefore I would like to see the Premier's statements put into the record, if that is the way you want to go. As Ms Gigantes has said, it is just a personal opinion of Justice Evans and I do not think that should carry any more weight than anyone else's statements. That is why I cannot agree with what we are saying about Justice Evans having his statements taken out and put in by themselves.

The Chair: Mr Harnick has referred to the phrase "draconian," other phrases such as "the blind trust with many eyes" have been referred to and Mr Fletcher suggests spots where the Premier has particular interest or salient points. If members wish to highlight the author of certain statements, they could give that direction to Ms Swift, and the other members can agree or not.

Ms Gigantes: The document to which I was referring is dated 6 May and it is from Susan. It has, starting on page 7, a fairly extensive list of some of the more pointed comments by the commissioner. I think if there are members of the committee who would like to recommend to us now that one or other of these comments be included, it has to do directly with the question of divestment, which is where we are; pages 6, 7 and 8.

Mr Mills: What is the delay?

The Chair: There is no delay. We are busy looking at quotations. Are there any statements from this compendium of quotations from Justice Evans that members wish to have included?

Mr Carr: You have incorporated a lot of his statements, going way back. Just as a point of clarification, how did you decide what to put in, Susan?

Ms Swift: Basically the structure of the report, the shell that you have, is a recitation of the evidence that was presented. I did not make any attributions to any witnesses, so that it flowed stylistically. That is basically what my criterion was, aside from ensuring that the ideas, at the very minimum, were in there. Certainly I have included some of the more pointed references or statements that were made by witnesses, but that is essentially how I went about it. Again, I think the letter that you refer to could perhaps be dealt with in that final section where it deals specifically with the act as opposed to the guidelines.

The Chair: So is it the intent of the committee that there be any highlighted statements attributed to Justice Evans?

Mr Mills: I would just like to speak to that, Mr Chairman. I must admit that I have very little experience in this committee forum here, but my opinion when I came here and became part of this committee was that I would listen to all and sundry and take note of what everyone said, and that part of the position of this committee was to decide what would be in the report. Were they placing any particular connotations to Justice Evans? I respect him as a person and as a judge, but nevertheless I am against highlighting particularly what the judge said because I have a fear that once we do that, it almost looks as though, "Well, look, folks, this is what the judge said and he is right." I do not think personally this is the role that I was put here to do, so I am not going to support it.

The Chair: Is there any further discussion on this issue? Can we move on now to committee discussion of recommendations?

Mr Morrow: Would you like me to read my recommendations back?

The Chair: If you can remind us again, yes please.

1700

Mr Morrow: Thank you very much, Mr Chair. "We feel that Justice Evans was correct when he said that a trust can never be blind. We therefore feel that disclosure alone will not suffice, but rather must be accompanied by divestiture. We therefore recommend that the divestment section remain as an integral part of the Premier's guidelines."

Mr Carr: Where were you reading that from?

Mr Morrow: That was my own part. I just wrote it down.

The Chair: Is it acceptable, Mr Elston?

Mr Elston: I am not so sure. Again, the nature of the delivery is for me too general in some ways. If you want the principle of divestiture to remain as part of the guidelines, we all face the numbers here. But I would hate to have the statement made at the beginning, or at least at the end of the one section, and then talk about divestiture when there are people who have raised very serious concerns about what divestiture means for certain people.

I know, for instance, that the member for Scarborough East, Bob Frankford, has an impossible task to divest his practice. It has cost him his parliamentary assistant's position. To be quite honest, I am not sure that is fair; in fact, I think it is not fair. Because of the difficulty associated with

delivering a practice of that type, it puts an unfair burden. I only wish to bring that example up as a case in point where I think it is extremely unfair.

If we make Mark's recommendation part of the report without having, in my view anyway, some kind of more flexible wording attached to it, then we condone I think the dislocation that has occurred for one of our current colleagues. That would probably be a mistake in the writing of the report. If there were something we could attach to that recommendation that would develop a little bit of flexibility and would answer a couple of the calls for less draconian consequences of a policy of divestiture, then I would be somewhat more comforted in the writing of the report. Let's just keep that one in mind.

I know the current Minister of Tourism and Recreation had to do some things with respect to a business that he built up. In the next three or four years, perhaps there will be a different result in an election. There is a person who is forced to get out of a business he has done a lot of work on. The member for Guelph shakes his head, but these things happen even to Liberals. It might even happen to some others.

It is just a very difficult thing for somebody to go back three years or four years later after having been told: "You have the stuff to be in cabinet. Get rid of your business." If you happen to either be turfed out of the cabinet or turfed out during the election, then to start from square one four years later in your life, that is the type of stuff I have real problems with. I have a real problem if we just say "Divestiture stays" and there is not something that allows us some flexibility. Those two examples are current. I can give some examples from the days when we were in government that would really make you sit up and take notice. I just want to leave it there.

Ms Gigantes: I do not fully understand, because I have just joined the committee, exactly how the report relates to the Premier's proposed guidelines. Within the divestment section of the Premier's proposed guidelines, there is a section that makes exception. The exception is related to satisfaction of the Premier, which maybe we can discuss separately. But personally I would be unwilling to let go of the notion of divestment. I know there are real live difficulties for people. I nevertheless think the principle is important enough that we should be willing to confront those difficulties. Where exceptions have to be made, then we should provide some mechanism for exceptions, but the principle itself should be one of divestment.

The Chair: The next section will deal with the issue of hardship, so are you suggesting we leave that discussion until the next section?

Ms Gigantes: No. Again, what I would like to do is establish the principle and then if there are going to be exceptions—just as we did in the previous section—we answer the questions in order, with a kind of logic to it.

The Chair: Okay, but it is the next section that deals with those exceptions.

Ms Gigantes: I think we should say in principle that we support divestment.

Mr Harnick: I have really no problem with the comments just made except in terms of the way the legislation or the guidelines will look at the end of the process. For instance, if the guidelines are to remain guidelines that belong to the Premier, I can accept the fact that if this Premier believes in divestiture and he wants guidelines that reflect that belief, I do not have a problem with that. But as the guidelines are now written it becomes impossible, at least for me logically and, I submit, for you, to make that decision, because if the guidelines become the law and become part of the conflict of interest act, they take on a different character.

The problem I have if these guidelines become law—if we look at section 15 it says, “Ministers are required to divest themselves of any asset, liability or financial interest which causes or could appear to cause a conflict of interest.” The answer to what could appear to be or to cause a conflict of interest is left open for someone to decide. If the decision is pursuant to guidelines that are not legislation, it would be the Premier making that decision. If the guidelines become law, who makes that decision?

Certainly the Premier, when he came here, indicated that these matters were to be satisfied or solved to the satisfaction of the Premier and that is what the guidelines say. So if the guidelines become law, they are still at the behest of the Premier and not at the behest of the conflict commissioner. And it becomes very difficult to make those decisions unless you know whether the conflict guidelines are to remain guidelines or become matters of law and become part of the conflict of interest act.

I certainly do not have any problem with the concept of divestiture if that is what this Premier wants for his cabinet ministers and if he wants to be the judge, jury and executioner in terms of the implementation and enforcement of those guidelines. But if those guidelines are to become law, the categorization is different. To be perfectly fair and honest we have to make a decision about whether these guidelines should become law or whether they remain as guidelines, and then the way we categorize these different aspects to it becomes much easier.

The Chair: That is two sections away. “Guidelines for Legislation” addresses that question. Do you want to reserve your comments for that section?

Mr Harnick: I find this to be a very difficult process. It is not clear in my mind. What we are getting involved with here takes on a different meaning if we are looking at guidelines or if we are looking at something that is to become law. If it becomes law it is a much more difficult process because we know there are some very grave deficiencies in section 15, for instance, the idea of the satisfaction of the Premier. If it becomes law and it becomes governed by or under the authority of the conflict commissioner, how does that affect the conflict commissioner in terms of carrying out the guidelines when he has to be subservient to the Premier?

Who is going to define what a business interest is? Is it going to be the Premier or is it going to be the conflict commissioner? Who is going to decide whether a financial interest causes or could appear to cause a conflict of inter-

est? Is it going to be the Premier or is it going to be the conflict commissioner? If it becomes law, we will have a real jurisdictional battle that we will have to deal with, and we will also have some very vague definitions. If it is going to become law, I think we should be amending these clauses, because we have been shown by the conflict commissioner that there are some very grave deficiencies in the way it is worded.

Certainly this committee has the jurisdiction and the authority, regardless of what we decide to do with this, not just to determine the principles of this material but also to amend, on a clause-by-clause basis, the materials, and make the sections better, based on the deficiencies that have been pointed out to us.

1710

Ms Gigantes: Rather than getting into a long dispute about this, let me suggest that if we are going to deal with the issue of divestment, we have to say yes or no. We cannot say yes if it is not law, no if it is law. If there are problems with the question of what the guidelines are going to be, law or somebody’s idea of how an NDP government should run itself, then we can get to that question, but I think we have to assert that in principle we approve of divestment. We think the holding of interests can create conflicts which we would like to limit, and we would like to limit them by way of divestiture.

The Chair: Have we discussed the issue of the recommendation?

Mr Elston: I think you cannot put it in the report that we adopt this thing unanimously. It is obvious to me that there is a considerable amount of divergence of opinion, even within caucus to a certain extent.

In the government caucus there have been some expressions. Some people want to go on and say, “We have established this principle, period,” and I do not think that can be written in the report. Although there may be a majority vote with respect to the wording of the recommendation, I do not think it can be seen to be a unanimous recommendation. That may be the place we have to leave it, that it very well will be an adopted recommendation, having been moved by Mr Morrow, and I think we can anticipate a vote, but at least we can write in the report that there were differences of opinion expressed by the committee members. The resolution was, however, adopted by majority vote. I think you have to leave it at that, because I agree, we cannot sit here and talk about this all—actually, we could all day today, but not several days.

The Chair: No, we cannot; we are to move back to Ms Fawcett’s bill. Can we move along? Mr Elston suggests a vote on this.

Ms Gigantes: I am fairly happy with leaving that statement as our process. I assume we have not adopted that as our process.

Mr Morrow: Mr Chair, the motion is on the floor.

Ms Gigantes: There is a motion on the floor. If it passes, I do not see why the report contains caveats within it. At the end, whoever has caveats can say so, but we do not have to put caveats within the body of the report.

Mr Morrow: There is a motion on the floor. Can we deal with that?

The Chair: There is not a motion on the floor per se, but you do have a recommendation.

Mr Morrow: I made a recommendation.

The Chair: And you would like to vote on it, would you?

Mr Morrow: Yes.

The Chair: We can call it a motion.

Mr Morrow: Same thing—motion, recommendation.

The Chair: Okay. Mr Morrow is moving the following recommendation: "We feel that Mr Justice Evans was correct when he said that a trust can never be blind. We therefore feel that disclosure alone will not suffice, but rather must be accompanied by divestiture. We therefore recommend that the divestment section remain an integral part of the Premier's guidelines."

All in favour of the motion?

Ms Gigantes: Does it have to say "the Premier's guidelines"? Could it not say "guidelines"?

Interjection: They are his guidelines.

The Chair: Opposed? Carried.

Can we move on to section 15, the first paragraph, top of page 6. "These recommendations were made to the committee concerning the meaning of 'undue hardship' and 'appearance of a conflict.' It was suggested that the section as a whole is vague and meaningless and that these terms are"—that should be "too," not "so"—"too subjective."

Mr Elston: How can we amend this without a vote?

The Chair: I think that is clearly a typographical error, Mr Elston. Besides, it was the suggestion of the researcher, who did do the writing.

This section is what Mr Harnick was referring to earlier, the definition of "hardship" being left up to the Premier; how could that be brought into the legislation or how could it be dealt with? Discussion on this section as it is written? Should the paragraph be adopted? There seems to be consensus that the paragraph be adopted. Committee discussion?

Mr Winninger: I find that while there may be some uncertainty in how these terms are defined, because this section is designed to be a discretionary exception to the absolute rule about divestment, there has to be some broad room for interpretation here in coming to the kind of discretionary decision that the Premier would have to make when faced by a claim to such an exception. If you start delineating in great detail what the exceptions would be, you run the risk that you do not cover all the possible permutations or that by defining them so rigidly you are eliminating any discretion on the part of the Premier there.

I would suggest that while there may be some vagueness there, if you become too precise and too rigid in setting out exceptions, then you remove the element of discretion, which I think goes to the—

Mr Elston: You mean the element of surprise.

Mr Winninger: If I had meant the element of surprise, I probably would have said it, but thank you for putting words in my mouth.

That is the point I wanted to make there. I think the wording is quite satisfactory.

The member for Bruce earlier alluded to the situation of the member for Scarborough East and how he had to give up his parliamentary assistantship. In a case like that, where his capitation contract with the Ministry of Health not only could be seen to be a conflict with his parliamentary assistantship, but also was in fact perhaps a conflict, he had the insight to accept that and resign from his position. There are other cases, of course, where there might not be a direct conflict, where it might be in accordance with the public interest that an investment be continued, and it may constitute an undue hardship to have to give up that investment. In that particular kind of case, the exception could be made within the broad terms of guideline 15, and I find the phraseology in which guideline 15 is couched quite acceptable for that reason.

Mr Harnick: I think experience has shown that this section has not to date worked, and in fact, in order for the Premier to get around these guidelines, he issued supplementary directions in order to extricate some of his ministers from an awkward position. He decided to change the definition of "business interest," and that was quite clear in his February documentation. It seems to me that one of the very grave difficulties with this section is the fact that it is left arbitrarily to the Premier. I will say it again: I do not have a problem with that if these are to remain guidelines, but if these are to become more than guidelines, then we make a mockery of what these sections say if we leave the wording vague and ambiguous. If they become law, they have to be precise and we have to know who is going to be making the decision. If they remain guidelines, then we can live with it as being vague and imprecise because it is a matter for this Premier and that is the course he decides to take in dealing with his ministers and parliamentary assistants.

But I do not think you can do that to the conflict commissioner if these guidelines are to become law. Again, you have the very fundamental question that if these guidelines do become law, does the Premier have the overriding decision-making power, as section 15 seems to set out now, or will that be amended so that it will become precise and understandable and able to be interpreted by the conflict commissioner in an independent manner?

1720

Mr Winninger: Excuse me just briefly, Mr Chair. In response to that, I was just going to ask if he would be content if the divestment sections were put in regulations rather than the act.

Mr Harnick: No, because regulations to an act are law and the effect of its being a regulation is the same as its being part of the statute.

Mr Winninger: You can change that by order in council, though.

The Chair: There is a difficulty about the order of the material we are dealing with, Mr Harnick, and you have

addressed that by moving ahead to the question of whether it is law or it is guidelines. Is it the wish of the committee to set this section aside and to move on to the next section? No?

Ms Gigantes: Mr Chairman, I think that again we are proceeding with one order of question after another and there is a logical flow. What may be happening is that perhaps Mr Harnick is reading section 15 in the proposed guidelines as if everything in 15 were what is going to be in the next section of our report, because there it says, "except where the minister is satisfied, the Premier," but we still have to come to the question of how the accountability will be framed. So you need not worry about that, because that can be the next decision. We do not need to decide that right now. All we have to decide at this stage is whether there should be exceptions and whether the wording that is proposed, in spite of criticisms by the commissioner, covers our concerns.

To my mind it does, because, for example, you suggest that in fact the definition of "business interest" had to be changed. That is an inaccurate reading of what happened in the case of rental properties and the Premier's application of the proposed guidelines. There, what happened was that it was decided that undue hardship would be extended, and there, what has happened is that there is a judgement made under a term which has proved to be flexible. It is not the kind of rigid armour that one might be afraid of. I think everybody understood the explanation that was given when that application was made, when that change in application of undue hardship and divestment was made. Nobody in fact said it should not be done in regard to rental property. I think that what we have, quite contrary to what you have suggested, is evidence that these kinds of terms have proved applicable, have proved to be terms which can be explained for given circumstances, and that the Premier's understanding of them and application of them changed because of his understanding of what undue hardship might be in certain cases, and I think that proves the value of the terms.

Mr Harnick: With due respect, I see it from the opposite side. Now that you mention "undue hardship" in the context of the Premier's amendments to his guidelines, if you will, or his adjustment to his guidelines, "undue hardship" was merely another term, now that you mention it to me, that is vague and that permits the Premier, as executioner of his guidelines, to allow people to skate out from under those guidelines, just as the definition of what is a "business interest" is a vague term.

In fact, I interpreted the addendum to the guidelines to be a definition of "business interest" in that the Premier permitted rental income from a residential building to be exempt from business income, and made a distinction with business income when he dealt with the rent from a commercial property. He made a definite distinction. It became acceptable for a blind trust to be set up to administer the commercial property, but the rent from the residential property was not considered to be a business interest.

On top of that—I am glad you have pointed it out to me—the other way to skate around these sections is

through the "undue hardship" sections. Again, it is so vague that it can be adjusted any which way. I point out that these sections become impossible to interpret unless you know whether they are going to be guidelines or whether they are going to be law. If they are going to be guidelines, I can accept that the Premier can be the judge, the jury and the executioner, because he is making the decision and those are the ground rules he is entitled to live by. It is his prerogative. But if they become law, the characterization and the way in which they are viewed have to be totally different.

The Chair: I have Mr Morrow, Mrs Mathysen and Ms Gigantes all with incredible interest in speaking at the moment. However, it is also 5:30 and we said we would return to Mrs Fawcett's bill at that time. I would like to suggest that we adjourn discussion of the conflict-of-interest guidelines with Mr Morrow's informed input on hold.

Mr Morrow: Can we finish this section please, Mr Chairman?

The Chair: We have accepted the paragraph but not the recommendations. Those have not been put in as yet. I would like to finish it, but I doubt that we will be able to do that in a period of five or 10 minutes and we did make a commitment to return to Mrs Fawcett's bill. I would suggest that we adjourn this discussion.

Mrs Fawcett: If my bill passes within five minutes, then you can return to this and finish it.

The Chair: That is a distinct possibility depending upon the informed consultation the Solicitor General has offered Mr Mills.

1730

HIGHWAY TRAFFIC AMENDMENT ACT (VOLUNTEER FIRE FIGHTERS), 1991

LOI DE 1991 MODIFIANT LE CODE DE LA ROUTE (POMPIERS AUXILIAIRES)

Resuming consideration of Bill 87, An Act to amend the Highway Traffic Act with respect to Volunteer Fire Fighters.

Suite à l'étude du projet de loi 87, Loi modifiant le Code de la route relativement aux pompiers auxiliaires.

Mr Mills: I would just like to say a few things in respect to this Bill 87, An Act to amend the Highway Traffic Act with respect to Volunteer Fire Fighters. I would like to read from Hansard a couple of points that were made on the day the bill was debated. We are talking here of the comments of Mr Dadamo, the parliamentary assistant to the Minister of Transportation. He goes on and on and he says this point: "The issuance of a special plate series to identify personal vehicles owned or leased by volunteer firefighters would require changes to public awareness programs, law enforcement awareness materials and our vehicle registration system in Ontario. None of these problems, however, is insurmountable, and they pale beside the necessity of this kind of designation of these vehicles when they are responding to an emergency situation."

He concludes his statement and says, "In view of these facts, I want to offer my support of this bill in principle and urge the other members of my party to support it as

well, recognizing that we will need to explore implementation issues." That is from the parliamentary assistant to the Transportation minister. In my role as the parliamentary assistant to the Solicitor General—and I am sure that you are just itching to hear that again—I said: "In summary, the Solicitor General fully supports the principle and the intent of the legislation as a symbol of recognition of the dedicated service provided by the volunteer firefighters of Ontario and as a symbol of the need to facilitate their efforts to improve the safety of our communities. However, a caution: We need to find a mechanism to achieve this which is efficient, effective and responsive, and I am sure that this can be achieved."

So what I am saying is that both the Solicitor General and the Minister of Transportation support this bill 100%. But I have had some discussions this afternoon with people in both ministers' offices, and they tell me that at the moment there are tremendous operational difficulties in passing this. So what we are asking, Mr Chairman, is that we want this set aside. We want to have maybe some hearings from the fire departments, maybe some hearings from the public, certainly representation from the Ministry of Transportation, certainly representation from the Solicitor General—

Mr Elston: This is how you are going to put the can on.

Mr Mills: No, no, no, no. There are two ways—

Mr Elston: That is exactly what you guys are doing.

Mr Mills: We are being exactly fair. We could, Mr Chairman, say, "Support this now and we vote on it and it dies on the order paper." We do not want that. We are saying, "Let's keep it open; let's keep the dialogue and let's pass it and let's get it done." I think this is being very fair and very, very up front that this is how we are going to handle it. We could sit here and it would die.

Mr Elston: You make your presentations in second reading for people to send out in their mailings to their volunteer fire departments; then you come into committee and hope you can hide behind something like "There are operational problems." Gord, that is the oldest story in the world in this business, and I will tell you it is just going to postpone this thing. You guys are going to drop this thing off someplace, and before long what will happen? Well, there will be a new way of dealing with it from the Ministry of Transportation. Or there will be a new way of dealing with it and there will be a big fanfare when the minister or the parliamentary assistant or the parliamentary assistant who may become the minister or whatever go out to the annual meeting of the volunteer fire departments of Ontario and say: "We have decided to do this for you. That other stuff that was being proposed in a private member's bill that was supported by all the people in the Legislature is passé, and we are going to give you the new one."

I am very, very surprised that you are doing this and doing it at such a late date. You did not even have the courtesy of telling Joan that you were going to raise this. I am sorry, but this is stretching it a little bit.

Mr Mills: Mr Chairman, if I can reply to Murray's comments, both the ministers' offices that I spoke to dur-

ing the recess were absolutely unaware that this was coming up so quickly and this afternoon. Believe it or not, they did not know.

The Chair: It is on the order paper.

Mr Mills: I know, but I am just telling you what they said. There is absolutely no intent of either ministry to scuttle this. In fact, I have gone so far as to photostat the debate in the House and send it to every fire station in my riding, as probably you have too, Joan, to let them know where we are at. If you think I am playing games here, I do not intend to play games. I am saying to you that I like to be honest and I want to tell you honestly that we intend to go forward with this, but to vote on it this afternoon—I am told by the higher echelons that we cannot do this and I am here to put that point of view across.

Mrs Fawcett: I think you are going beyond what the intent of the bill is here, and so possibly are the ministries. If you also notice that, as the minister said, "My ministry will be working whether to implement the contents of this bill," really, the bill just gives permission so that a licence plate may be issued. All of these other things certainly can be worked out. To me those are just ways to implement. They do not have to be in this bill. Even if you want to put them in now, that is fine, but to me they do not have to be there. All we are doing is saying we are going to allow them to have a licence plate and then once they are finished being a volunteer they hand it back in. That is really all that is here. All of this other is something that, together with the fire departments and the volunteers across the province, we can decide. The ministry and whoever is involved can work, but really all this does is say yes, you may have a licence plate. It does not mean that they would go in and demand one.

Mr Mills: The difficulty is that the licence plate might not even be the form they want.

Mrs Fawcett: Right, but it does not matter.

The Chair: We have, I am sure, several possibilities in terms of how to deal with this. The ministries seem to be supportive of the legislation. I am wondering if it might not be appropriate for your caucus to discuss how to respond to it at this moment.

Mr Mills: I have told you.

The Chair: You suggest setting it aside until whatever.

Mr Mills: We want it put over.

The Chair: Until?

Mrs Fawcett: Next week?

Mr Mills: Probably. I was just told that this afternoon is absolutely impossible to deal with this. There was no indication given to me that it would be a month, next week, tomorrow, but I have been told, and I am acting on instructions from both ministers, that it is impossible to deal with it today.

The Chair: Okay. For how long do you wish it set over, sir?

Mr Mills: You tell me when you want to put it in the schedule and then we will have people here.

The Chair: What do we have set for next Monday?

Clerk of the Committee: The only thing this committee is currently considering, other than the bill that was scheduled for today, is conflict-of-interest guidelines.

The Chair: I would suggest that we set it aside until next Monday.

Mr Mills: Right.

The Chair: Is that acceptable? Hopefully we will have informed consultation by that point.

Mrs Fawcett: Will you be placing some amendments?

Mr Mills: I cannot speak for the two ministers involved. I do not see why I seem to be sort of the bat boy for this. When I came and I saw it, right away red flags started ringing in my brain based upon the debate that day. I took it upon myself to go call these ministers and say, "Look, this is up. What do you want done about it?" and the response that I got back is what I am telling you.

Mrs Fawcett: The Minister of Transportation himself said they would be implementing it.

Mr Mills: You see, to just sit here and say we are going to give you a licence plate number is absolutely incredible.

Mr Elston: That is what the House did on second reading. In principle they have adopted that happening.

Mr Mills: In principle, yes.

Mrs Fawcett: Nova Scotia has it right now.

The Chair: We have a resolution to put it aside for one week.

1740

Ms Gigantes: Is it normal process for the committee to inform the ministry or ministries affected by a bill?

The Chair: The bill was, after all, discussed with the PAs from both of those ministries there and commenting on it. It was passed and was referred here.

Ms Gigantes: To inform them of the schedule of our dealing with matters like this.

The Chair: Oh, I see.

Ms Gigantes: It would make eminent good sense.

Clerk of the Committee: Generally what happens, if the committee is having public hearings on a bill—I can use Norm Sterling's bill that was just before the committee as an example. Because we were having public hearings, actually the ministries contacted me, the Ministry of Health and the Ministry of the Attorney General, and said they wished to appear on the bill. Because there were no public hearings on this bill, there was no direction to me from the subcommittee in terms of inviting anybody to comment on the bill. If the committee members would like me to, if they were to tell me which ministry or which groups to invite, that could be arranged for next Monday.

Ms Gigantes: I think if we built it into our process, we would certainly avoid this in the future. It is very frustrating for all of us.

Mr Mills: It is. I do not like to be part of it myself.

The Chair: So our suggestion for next week is to have information, to have hearings on this bill. Is that what you are suggesting?

Mr Mills: My suggestion for next week is that there be present here people from both ministries to discuss this matter with some sort of semblance of order and logic, rather than our just saying we will do it.

The Chair: So you are suggesting that there be invitations sent to the Solicitor General's office and the Ministry of Transportation so that if there are other problems with this—

Mr Elston: They would be making presentations, so there are public hearings.

Mr Mills: Yes.

Mr Elston: That is what they are. The committee is a proponent of the bill, and you will have them here as witnesses then.

Mr Mills: Yes.

Interjection.

Mr Elston: No, they are actually the public in that case, because they are not the proponents of it, so they come only as witnesses for the public interest, I presume.

I would not mind asking, Mr Chair, what huge operational problems are associated with implementing a licence plate program. When people in the Ministry of Transportation figured out that they could make big gobs of money by selling the so-called vanity plates, they did not talk at all about the issue of operational problems. The only thing they felt they had to do was have somebody who looked at the public interest behind the vanity plate and what was said on those plates. There are certain things that have to be screened, and I can understand that. What kind of operational overburden could befall a ministry the size of the Ministry of Transportation when it is talking about getting a plate that is acceptable to the volunteer fire department, if everybody is in favour of doing it? I just do not understand it.

Mr Mills: That is what we will find out next Monday.

Mr Elston: I just find that so totally without ground that it is kind of laughable. I suspect Mr Mills has fortunately awakened somebody who maybe fell asleep at the switch or something, but I cannot agree that there is some big, huge operational difficulty that would seem to create a catastrophe-in-waiting if we say, "Yes, now that we have the principle that we will issue these plates and we will take a look at this bill that says, in two sections, if you are a volunteer fire person, you get the plate, and if you no longer are, ie, you have ceased to be a volunteer firefighter, then you have to turn your plate back in," that that somehow is going to create some kind of catastrophe that brings the whole world falling down around us. I just do not believe it.

The Chair: I am sure that if there are some monumental difficulties with implementation of this legislation, we will be informed of them, and if we are not satisfied with the extent of those difficulties, we can pass it.

Mr Mills: Hold it. I have fresh news off the press that the MOT is now going to support this bill. No one can say I did not try to voice my concerns.

The Chair: Any further comments on the bill?

Mr Morrow: There is a motion on the floor.

Mr Mills: I withdraw that motion.

The Chair: Have you withdrawn, sir? Any further comments on the bill?

Sections 1 to 3, inclusive, agreed to.

Les articles 1 à 3, inclusivement, sont adoptés.

Title agreed to.

Le titre est adopté.

Bill ordered to be reported.

Le projet de loi devra faire l'objet d'un rapport.

The Chair: At this point, shall we return to conflict of interest or to the subcommittee report, which should be quickly accepted? We have a quarter of an hour. We can either return to conflict of interest or adjourn early.

Ms Gigantes: I am prepared to move a motion out of the report, section 15.

The Chair: Unless there is a motion to adjourn or to move on to the subcommittee report.

Mr Elston: The subcommittee report has already been passed, I think, in your absence.

CONFLICT-OF-INTEREST GUIDELINES

Resuming consideration of the Premier's conflict-of-interest guidelines.

Ms Gigantes: I am prepared to move a motion, following from section 15, page 6 of the report before us, and I would move the following wording, "However, the com-

mittee believes that these terms, as used in the proposed guidelines, will prove useful to their application and to the judgements made under the guidelines."

The Chair: I am sorry. Could the clerk read that again, please.

Clerk of the Committee: Ms Gigantes moves the following wording for section 15, "However, the committee believe that these terms, as used in the proposed guidelines, will prove useful to their application and to the judgements made under the guidelines."

Motion agreed to.

The Chair: Shall we move on to the next section or shall we adjourn?

Mr Carr: I move we adjourn.

Mr Mills: Adjourn. We are going to be caught halfway between something anyway.

Ms Gigantes: I think we could probably finish—

The Chair: Moving on to the next section.

Mr Elston: In fairness, this is a section Mr Harnick had a particular interest in, and although we may start the discussion, I suspect we may have to repeat it when Mr Harnick comes back, so maybe Mr Mills's earlier suggestion is a good suggestion for us.

The Chair: We will adjourn till 3:30 tomorrow, when we resume discussion of conflict-of-interest guidelines.

The committee adjourned at 1749.

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Conflict-of-interest guidelines

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Première session, 35^e législature

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Le lundi 10 juin 1991

Comité permanent de l'administration de la justice

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sur les conflits d'intérêts



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Monday 10 June 1991

The committee met at 1555 in room 228.

CONFLICT-OF-INTEREST GUIDELINES

Resuming consideration of the Premier's conflict-of-interest guidelines.

The Chair: I would like to call the meeting to order. We had finished section 15, page 6 of Susan's report in regard to conflict of interest. We had gone down to the committee discussion and recommendation of this question of guidelines and legislation.

Mr Morrow: If I may make a small clarification on this, did we not read through all of page 7 when I was in the chair last, Mr Chair, and then we were just going into recommendations after page 7?

The Chair: Yes, discussion and recommendations from the committee on page 8?

Ms Gigantes: Mr Chair, I am willing to lead off discussion on this section. It appears to me that the whole point of looking at this matter at this stage is to make sure that we have conflict-of-interest legislation which is going to be an improvement on the existing legislation. I think it would be useful for us to take that as an assumption, if that is agreeable to the committee, and then talk about, flowing out of that, what structure the legislation should provide for its administration.

I am quite content to see the same structure as currently applies in the Members' Conflict of Interest Act, and that would mean essentially that the commissioner would have a widened mandate, because our conflict-of-interest legislation would be wider. The commissioner would have the responsibility for taking up any requests for inquiries under the act, the responsibility for reporting to the Legislature, and then the Legislature would determine what happens.

It seems to me to be not fruitful to spend an extended period of time talking about the role of the Premier in this. The Parliament will decide what to do with the report, as Parliament does, if my proposal is followed, under many other acts of a similar kind, for example, the Ombudsman Act and the existing conflict of interest act, and the Premier would be obviously a key person in that Parliament in ultimately deciding what happened on a given matter. But I think the reporting through Parliament and a decision by Parliament gives the Premier as much leeway as he or she may need in the future to decide how to treat a matter on which the commissioner has reported, and the mechanism that is currently in the act would provide Parliament with the independent reporting function that people have felt important.

I would suggest as a start for discussion that we think about those notions.

Mr Harnick: It is interesting to note in the paper there was only one witness who suggested that the guidelines be

incorporated into legislation. The overwhelming weight of opinion was indecision about the effectiveness of that matter, or from the person who knows more about it than anybody else and the person who is most independent in his views on this matter—and I am referring to Chief Justice Evans—the opinion was that we not make this part of the legislation. I certainly hear what Ms Gigantes is saying, and we did have some information discussions. I would point out to her the provisions of section 16 of the Members' Conflict of Interest Act, 1988, and I will recite that section so that it is clear to everyone here.

It states:

“(1) Upon receiving a request under section 15, and on giving the member concerned reasonable notice, the commissioner may conduct an inquiry.

“(2) Where the request for an opinion is made under subsection 15(1) or (2), the commissioner may elect to exercise the powers of a commission under parts I and II of the Public Inquiries Act, in which case those parts apply to the inquiry as if it were an inquiry under that act.

“(3) Where the request for an opinion is made under subsection 15 (1) or (2), the commissioner shall report his or her opinion to the Speaker of the assembly who shall cause the report to be laid before the assembly if it is in session or, if not, at the next session.

“(4) Where the request for an opinion is made under subsection 15(3), the commissioner shall report his or her opinion to the clerk of the executive council.”

Then we go on to section 17:

“(1) Where the commissioner conducts an inquiry under parts I and II of the Public Inquiries Act for the purposes of subsection 15(1) or (2) and finds that the member has contravened section 3, 4, 6, 7, 8 or 9, or has refused to file a disclosure statement within the time provided by section 12, the commissioner may recommend in the report that is laid before the assembly,

“(a) that the member be reprimanded;

“(b) that the member's seat be declared vacant until an election is held in the member's electoral district.

“(2) The assembly shall consider the commissioner's report and respond to it as subsection (3) provides within six months of the day the report is laid before the assembly.

“(3) The assembly may order the imposition of the recommendation of the commissioner under subsection (1) or may reject the recommendation, and sections 45 and 48 of the Legislative Assembly Act apply in the same manner as to a contempt of the assembly, except the power to further inquire into the contravention or to impose a punishment other than the one recommended.”

So it is not quite as simple as having an act that is left to the discretion of the Premier. If this is really going to work, then if you want to make it legislation the option has got to be there that it be left totally in the hands of the

commissioner, not in the hands of the Premier. If the guidelines are to be left in the hands of the Premier, then I submit they should be left in his hands as guidelines only. If the Premier wants to maintain the power to make the decision at the end of the day, then the guidelines should be left as guidelines so they can be used however the Premier of the day wants to use them.

Some premiers of the day may elect to have different guidelines for their ministers. We heard some evidence that the guidelines that were imposed by Premier Davis were more stringent than these guidelines, yet they were guidelines only and they worked as guidelines. If at the end of the day the Premier wants to have his cake and eat it too, then they should be left only as guidelines. If you want them to become law, then it is incumbent to remain consistent and not only make them law but leave them to the Conflict of Interest Commissioner to make the final decision, as opposed to the Premier.

I believe that the reason the government members seem to be opting to make these law is quite simply because a couple of cabinet ministers, all of whom are rookie cabinet ministers—not cabinet ministers with any experience, but the rookie cabinet ministers who came in here without exception were of the belief that public perception is what should make these guidelines law, and nothing more.

We heard the evidence of experienced cabinet ministers, and we also heard the evidence of the independent conflict commissioner, who said that those in public life are by and large good, honourable people. In fact, not a single person who came and gave evidence before this committee could indicate any issues in which there was an abuse of a minister's responsibilities and any gain that he attained because of that abuse. No one could point to one single incident where these primarily divestiture and other guidelines were necessary.

There had never been an instance in the past that anyone in modern times could recall where the conflict-of-interest rules, either in the Conservative government pre-1985 or in the Liberal and NDP marriage between 1985 and 1987 and the Liberal government from 1987 to 1990 would have been necessary. No one could name a single incident. Yet there was, on the part of the rookie cabinet ministers who came in here, a perceived notion that these guidelines had to become law because it was the public's perception that mattered. It was not the fact that there had been no incidents where guidelines like these were necessary; it was this perceived notion.

I point out that the conflict commissioner, who has been fully aware of the conflict-of-interest laws in this province and has administered the Members' Conflict of Interest Act, said that these guidelines were not necessary—and certainly were not necessary to become law—to do any more than the conflict of interest act was already doing. If these guidelines do become law, and they should not, they should at least be implemented without the Premier being the final arbiter. It should be the conflict commissioner who is the final arbiter.

I point out as well for members of the committee the evidence that we heard about divestment: We heard that the requirement of divestiture is draconian and unnecessary; it

is not a realistic option; if divestiture is adopted there should be an exception for those corporations or businesses that are not likely to become involved with government; if divestiture is adopted it should also apply to pension plans; some exceptions should be made for small family businesses; divestiture is not appropriate because it cannot apply to non-economic matters such as political interests; divestiture is wrong; instead, disclosure should be strengthened: focus on complete disclosure with severe penalties, including a financial penalty, in addition to losing one's seat.

The words "could appear to cause a conflict of interest" in section 15(a) are vague and subjective. The term "business interest" should be defined to exclude investments. The terms "appropriate undertaking" and "not consistent with the public interest" need to be clarified. Those criticisms are really a scathing epitaph of section 15 of the conflict guidelines.

I put it to you people that if you are going to decide to make this law, which obviously you are going to do because the marching orders have been given, at least clean it up so that it reads like real legislation, so it is not this nonsense that has caused this government sleepless nights. Surely you are not going to make this law with the knowledge that every witness coming in here save and except for one, who has said that this section is a proper section in the form that it now appears in—

Ms Gigantes: Some simply did not comment.

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Mr Harnick: That is probably because they did not know. But of all those who commented, I point out to Mrs Gigantes, only one had anything positive to say about the divestiture sections. Surely if you are going to make these guidelines law, you cannot make them law in the form in which they appear, because they are just incomplete. If this committee is supposed to be looking at these guidelines with a view to whether these guidelines should become law, the answer is that they should not if you are going to listen to the evidence that came before this committee. If you want to ignore that because you have your marching orders to do it, go ahead. It is your sleepless nights. I am quite sure that the next government, and it will not be you, is going to get rid of these anyway.

Mr Sorbara: Let's see now, it will not be the Tories, so—

Mr Morrow: It will not be the Tories and it will not be the Liberals.

Mr Harnick: I did not say that. But surely if you are considering making these law, do not do it in the abstract. Send it back and get some decent legislation that people can live with and that defines who is going to make the decisions at the end of the day. I urge you not to just take your marching orders from upstairs and from whatever minister is calling the shots here, but to take a look at what the witnesses said, so that all the time we spent here asking them questions and compiling their answers and doing the summaries has not been totally wasted. Surely if you do that, you cannot say you want this conflict-of-interest guideline material to become law.

Mr Sorbara: What can I say? It is great to be back. I am sorry we are still discussing these guidelines, but it is good to be back on the committee. Just to explain to you in the chair, sir, I have been called away by my party to participate in hearings of our party to consider the recent budget of the government. It is not all, all, all bad, I report, at least from the southwest, where I was, and the north. But it is pretty bad; it does not look good at all. Some of the concern was expressed in terms I had not heard in my six years in politics. Particularly the fear—

Ms Gigantes: Is this in order, Mr Chair?

Mr Sorbara: Totally in order.

The Chair: Mr Sorbara, could you refer perhaps to the question that we are discussing.

Mr Sorbara: I think my friend the member from Ottawa Centre is a little bit touchy about our inappropriate interjections in the House today. The reason I was making those comments is because I just wanted to say a little bit about listening and not listening. My own sense in this committee considering these guidelines is that all the decisions have been made elsewhere and the members of the committee are not really very interested in considering the evidence we heard or expressing a personal view about whether we should be incorporating these proposals into legislation or keeping them in guidelines.

So I guess I am just talking for the record in saying I believe very strongly that it would be ill advised to recommend to the government that it bring back legislation if that legislation requires ministers of the crown to divest themselves of the business interests and the assets that they have.

I argue that case from two perspectives. The first is based on the evidence we heard before this committee. We heard from only one real expert, Chief Justice Gregory Evans, who has been dealing with the issue of conflict of interest for quite some time on behalf of the government of Ontario. He said requiring a minister to divest of his interests is draconian and he said no other jurisdiction in the world had such measures.

Why is it draconian? I think probably members of this committee should ask themselves that question honestly. Why did Gregory Evans describe the proposal that ministers be required to divest themselves of their business interests and assets as draconian? I wonder if any members have asked themselves that question, because if you ask yourselves the question, then quickly you find that what you are doing when you put that into guidelines or legislation is basically disqualifying anyone with business interests or assets from participating as a member of the executive council.

This should be of great interest to my friend the member for Ottawa Centre, because here she is sitting on a legislative committee and only two months ago she was a member of the executive council. The kind of system that we have in Ontario unfortunately, and I say this with great honesty, required her to step down from the executive council, at least for a period of time. I expect she will be back there, probably sooner rather than later, but those are the niceties of the way in which politics are undertaken in this province.

I ask my friend Mr Winninger, are you a lawyer?

Mr Winninger: Is that a rhetorical question?

Mr Sorbara: No, it is not. I am really interested because the remarks I am about to make need the understanding of a legal mind to follow very, very clearly. So I ask, in all sincerity, you are a lawyer, are you not, sir?

Mr Winninger: And I ask, is that a rhetorical question?

Mr Sorbara: No, it is not. It is a question of substance. You do not have to answer. You are not on the witness stand.

Mr Winninger: In that case, I am not a practising lawyer, because I have divested myself of my law practice.

Mr Sorbara: But you are still a member of the Law Society of Upper Canada.

Mr Winninger: No, I am not. I do not pay dues to the law society. I am not a member of the law society.

Mr Sorbara: But you had been, up until your election, a practising lawyer.

Mr Winninger: Yes, that part is true. Is this cross-examination?

Mr Sorbara: No, not at all.

The Chair: Mr Winninger, I believe, was to have been one of our witnesses. However, we have not the opportunity to examine him in any detail today.

Mr Sorbara: The only reason I mentioned that is because if Mr Winninger has ever practised law, he will understand what is involved in the legal ramifications of divesting of a business interest, particularly within the terms of the guidelines as presented; that is, sale within, say, 60, 90 or even 120 days, or whatever. He will understand, for example, that if I own an asset that has an adjusted cost base of say \$100,000—

Mr Winninger: Try a few million.

The Chair: Allow Mr Sorbara to continue.

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Mr Sorbara: If a member has an asset with an adjusted cost base of \$100,000 and a current market value of, let's say, \$500,000, if a member is required to sell that, he will incur very substantial tax liabilities in the form of a capital gains tax, which would be 25% of the difference between \$500,000 and \$100,000, or \$400,000, and the tax liability would be one quarter of that, or \$100,000. So right away, if you sell your asset you incur that tax liability.

I think it is fair that we have those capital gains taxes, but oftentimes that is the only ramification of a quick sale of an asset of that sort. You do not get cash from the deal but the tax collector wants his tax right away. So if you cannot raise the money to pay the taxes you cannot even sell the asset, because generally what you are taking back is security in the form of a mortgage or a promise to pay. That is all the more so if, as is likely, the asset that is owned is not full and complete ownership but, say, the ownership of 25% of an asset worth, say, \$1 million.

My friend Mr Winninger, if no one else on the committee, will understand that the only realistic purchaser of the 25% interest in that business is the 75% owners, and often that is a collection of 2, 3, 4, 10 or 20 people. Mostly those partners are uninterested in buying the asset. Mostly those partners do not have the cash available to buy the asset, and they will tell you that if you want to practise politics,

do not make it their problem. They are not interested in buying the asset.

I use those examples just to say that the suggestion in the Premier's guidelines that if you have a business interest you should sell it is so inappropriate that to actually put that in legislation would be very foolish. I am wondering if this committee is really going to take that into consideration. If they are not and if they are going to do that—and my friend from Guelph is nodding his head, suggesting that they are just going to go ahead—I guess that is fine. That will have to be repealed when this government is finally voted out of office. But it would be very disappointing.

Just to use some examples, Franklin Delano Roosevelt would not have been able to comply with the Premier's guidelines but probably Richard Nixon would have. Clearly a Trudeau would not have been able to comply with this government's guidelines, but probably Joe Clark would have. It does not make a whit of difference in other words, Mr Chairman, as to the quality of the government you get that you would suggest someone would have to sell his interest in order to qualify for the executive council under Bob Rae. But the fact is, who in their right mind would do it?

Every minister knows you are liable to make a mistake of the kind made by the member from Ottawa Centre and you have to step down, and what is left? I got to spend a month in Bob Rae's cabinet, I sold everything I had, I took a beating, the market was not good and then I made a mistake. It was an honest mistake but politics requires me to step down. Give me a break. Who in their right mind would do that? If you own a small manufacturing concern or if you own a small interest in property, who would do that for the opportunity to serve in the cabinet?

Gregory Evans when he testified here before this committee had it right; no one. He said what you are liable to get is a bunch of ex-inmates from Millhaven and Penetang. I am not sure that was put terribly delicately but I am quoting the commissioner. The fact is that you know if you do that, you suggest to many people who could contribute effectively in the executive council of a province like Ontario that you are basically closing the door to their participation.

I know the member for Middlesex is not really interested in this and this is my—

Mrs Mathysen: I am fascinated, Mr Sorbara, but I am having a little bit of trouble imagining you spending one month in a Bob Rae government.

The Chair: Mr Sorbara, are you finished your comments?

Mr Sorbara: No, I am not. I am not finished—

The Chair: Please, please do so, sir.

Mr Winner: We are extending the guidelines to cover leadership candidates.

Mr Sorbara: You probably would like to do that but it does not matter. I have had now some six years and a little bit of experience here and one thing that I have not found, I tell my friend the member for London South, in six years of doing this business is a member who is fundamentally here to line his or her own pocket. I have seen people with very large egos, I have seen people who just

throw themselves at this work with all of the addiction of a workaholic, but I have never seen anyone who is here to make himself or herself richer or to further his or her private interests.

I have never seen that. I do not see that in the 74 members who now make up your caucus, I do not see it in any of your ministers, I do not see any of them trying to figure out how they can personally benefit from the work that they do. I did not see that in the cabinet that I was a part of. I did not see that in any of my caucus members. I did not see that in the opposition members who were part of the Legislature. In fact, I have never seen it.

I imagine that someplace in our history there have been a few scoundrels. I do not think these guidelines or the casting of legislation around these guidelines will dampen the enthusiasm of a scoundrel one single bit. If you are going to cheat, if you are going to use your public trust to further your private interests, you are going to do it.

I have seen Bob Rae make the wildest of allegations about cabinet ministers in this regard, that they were trying to further their private interests, and I have seen our guys go down that path a little bit as well in respect of some of the incumbent cabinet ministers, not as aggressively, by the way, as Bob Rae did when he was Leader of the Opposition in respect particularly of a couple of our members, but they were alive then and they are alive now.

Most people when they get elected to this place generally want to serve the public interest and set aside their private interests. Most of us, I think, forgo wages and salaries that are significantly above what we make here as MPPs or ministers. Most forgo, I think, very substantially. That is the case in our caucus and I think probably it is in the case of the Progressive Conservative caucus and the government caucus as well.

Mr Winner, for example, has been a lawyer. If he decided to go back to the practice of law, he could probably make substantially more than he does as an MPP. He might choose to practise in an area where the salaries are not very good, but if he decided to apply himself to that practice, he would make substantially more than he is making as an MPP.

We say now we are going to put into place guidelines and make them legislation. I think it is so crassly political. I know that Bob Rae in opposition had to advocate this system of divesting. I understood why he would do that. But it was interesting the degree to which he had to back-track when a few ministers and parliamentary assistants could not sell interests that they had. Poor Anthony Perruzza, the member for Downsview, who had some small interest in a piece of property. The suggestion now is that he is going to have to sell it. It is so stupid to consider that Perruzza would have to sell that interest in order to continue to perform his duties as a parliamentary assistant of something or other.

Mr Harnick: On a point of order, Mr Chairman: It is interesting that Mr Fletcher makes the comment about poor Mr Perruzza that he will get that interest back as soon as this job is over anyway. It goes to show you how significant these conflict-of-interest guidelines really are.

The Chair: Excuse me. I do not think that is a point of order.

Mr Harnick: No, it probably is not, but I just wanted to get that out.

Mr Fletcher: Excuse me, Mr Chairman. Somebody is reading into the record something that I do not remember saying.

Mr Sorbara: They say memories are very short in politics. I guess Mr Fletcher provides an example of the shortest memory in the history of this Parliament if he has forgotten so quickly. It was about a 15-second loss of memory.

Anyway, it does not matter one way or the other whether he gets it back or whether he does not get it back. It is all politics. To suggest that people should sell their interest so that they can serve the people of this province is so stupid that it defies serious consideration.

Bob Rae can put it in guidelines because when he got elected he made a career out of accusing people of violating the public trust. For five years in this Legislature, he made a career out of that. He destroyed reputations on the basis that people were cheating and were violating the public trust. Ask Chaviva Hosek. Ask Joan Smith. Ask Elinor Caplan. Ask René Fontaine. Ask the member for Ottawa Centre. She experienced part of it. He made a career out of it, so when he got here he had to portray himself as holier than thou. "All of my ministers"—

The Chair: Mr Sorbara, the microphone system is working.

Mr Sorbara: Well, I get mad about it because these are my friends. Evelyn Gigantes witnessed it.

Ms Gigantes: You are no friend of mine.

Mr Winner: With friends like that, who needs enemies?

Mr Sorbara: Ask Steven Mahoney about the allegation.

I think that one day we are going to stop being so crassly political with people's lives in this place. I will tell you one thing. When our government is re-elected, if you put this into legislation, my sense is that we will repeal it, that we will ask people with significant interests to put those interests aside, to place them beyond their control and to dedicate themselves fully to the public concern. But to suggest that you would have to, in the style of St Francis of Assisi, sell all you have to serve Bob Rae is so crassly political and so designed simply to justify the kind of outrages that the now Premier undertook during his time as opposition leader that above all it is just sad.

We had one witness of substance before this committee who had no political interest whatever in the outcome of our deliberations and that was the Conflict of Interest Commissioner, and he said that it was draconian and unnecessary.

I want to predict that this committee will probably decide that this should be in legislation. We are going to disagree with that and we will have a dissenting opinion, a minority report, to accompany this report if that is what they choose to do. But that is neither here nor there. I do not think many will read nor will many care, but the fact is

we have an obligation to do that, simply to say the government is wrong in what it is considering.

I look forward to further consideration of this section. I think this is one of the most important in the report. I think the work that has been done in the commentary is sufficient and appropriate and reflects what we have heard. I would simply ask members of the committee to set aside the orders they have received from the people who are running this place and to consider making a substantive recommendation, that if the Premier chooses to implement these guidelines, that is fine, but he ought not to make it the law of Ontario.

Ms Gigantes: Mr Chair, would you give me guidance? Would it be appropriate to attempt to focus our discussion by putting a motion? I am prepared to put a motion.

I move that the proposed guidelines be incorporated into the Members' Conflict of Interest Act and that the mechanism of administration—

Mr Harnick: On a point of order, Mr Chairman: Does this mean that we are finished discussing?

Ms Gigantes: No. I am putting a motion to help focus our discussion.

The Chair: Ms Gigantes suggested a motion around which discussion can hang.

Ms Gigantes moves that the proposed guidelines be incorporated into the Members' Conflict of Interest Act and that the mechanism of administration be the same as is currently in the act, ie, through report to the Legislature by the conflict commissioner in the ways suggested by the act.

Mr Harnick: With respect to the motion—

Ms Gigantes: Do I get to speak to it?

The Chair: I believe you do.

Mr Harnick: Can I say something about the form of the motion?

The Chair: Ms Gigantes?

Ms Gigantes: Mr Chair, did you rule on Mr Harnick's request?

The Chair: It was not a point of order and you have the floor.

Ms Gigantes: I think it might be considered a point of order, but I am quite prepared to speak to the motion as it is.

It does attempt to combine two items, namely, one, the direction in which we are going, in other words towards legislation, and two, the method of administration being proposed, which is the same as in the existing act.

If I could just take a few moments and go back over what our two friends from the opposition parties have been saying, if we boil it down, Mr Sorbara has been saying the guidelines propose something that is inconvenient, something that is messy and, in the end, something that is unnecessary. Further, from the point of view of the party he represents on this committee, were it to come to power, it would repeal such legislation. Mr Harnick is saying, I think most simply, that the content of the guidelines is not necessary, and from both we have heard that there has been only one witness who spoke in favour of having the guidelines incorporated into the existing act.

I think that is really not an adequate representation of the testimony that was before this committee. I count five ministers of the crown who came before this committee and talked about the purpose of the guidelines in a way that I, for one, read clearly as establishing a legal reference. I think those are significant contributions, and if others disagreed, it is a matter of difference of opinion.

I, for one, quite the opposite of what Mr Sorbara has suggested, felt that I had urged Mr Rae on this matter in a discussion many months ago, long before the election. I had a chat with him when he visited Ottawa, and he said to me, "What do you think we ought to be doing?" I said, "One of the things I really think is that the public feels it is necessary to have stronger conflict-of-interest legislation and to clean up the political apparatus, both at the national level and at the provincial level," and for all the protestations of members' offices, in fact, there have been some serious difficulties with political conflict of interest.

Mr Harnick: Name one.

Ms Gigantes: I do not want to get into cases, but there have been.

Mr Harnick: Name one.

Ms Gigantes: No. We are not going to get into that silliness.

Mr Harnick: Name one.

The Chair: Mr Harnick, please.

Ms Gigantes: The mechanism that we are proposing to use and I am proposing to use is the one that exists. It seems to have worked well as a mechanism. Now what the members opposite are complaining about is that they do not like the content which will be carried by that mechanism. It is too tough for them. It is too messy for those with business interests. It is too inconvenient, and above all, they say it is unnecessary. Well, I think that is their opinion. I do not believe that.

Mr Sorbara: Just a point of order if I might, Mr Chair.

Ms Gigantes: Further, we have talked about—

The Chair: Mr Sorbara, is this a point of order?

Mr Sorbara: Yes. Unfortunately, the member for Ottawa Centre is suggesting I indicated that the guidelines are messy and inconvenient. I think that if there were a review made of Hansard, you would find, sir, that is not—

The Chair: The member for Ottawa Centre did not name you, sir.

1640

Mr Sorbara: The point of order that I want to make is this. A motion was moved by the member for Ottawa Centre. I am not sure if you ruled whether that is in order, but if it is I would just like to know, as we go through the report, whether in each case where the report provides for committee discussion and recommendations we are going to be proceeding to determine what is said in those sections by way of motion from the government or from others, or whether there is going to be a draft prepared by our researcher and submitted for consideration of the members. If that is the case, I would suggest that we make a decision about that so each of us could have motions prepared section

by section as we come here. This is the first time I have dealt with a report of this sort, so I am really looking for direction from you, sir, on how we are going to order our business and whether we are going to proceed by way of motion and votes on the motions that are made or whether we are going to have—

The Chair: That has been the way we have proceeded, by way of motion as a final achievement in terms of the consensus of the committee. I think you are probably right; if you are able to have ready on paper some preparation of ideas or thoughts around the substance of a particular section, that would probably be preferable.

Mr Sorbara: Yes, but I just—

The Chair: I believe that the member for Ottawa Centre has the floor still, and I think her motion is proper.

Mr Sorbara: Well, if that is the case—

Interjection.

Mr Sorbara: If I might just finish, Mr Harnick, would it not be appropriate, if the government is proposing to proceed in that way—perhaps appropriate is not the right word, but as a matter of courtesy—to have copies of the motion available for other members.

The Chair: It is being copied as we speak.

Mr Sorbara: Right. Do you want to have an adjournment until those are available?

Mr Harnick: On a point of order, Mr Chairman: I have become a little confused—

Ms Gigantes: Is this a different point of order? I wish to speak to Mr Sorbara's point of order.

Mr Harnick: It is very much part and parcel of what he said. I have become confused in that I believe what Mr Sorbara was asking was, if it will be the opinion of this committee that these guidelines are going to become law, will we then be having the opportunity to go through the guidelines clause by clause to propose amendments to the guidelines? Is that what Mr Sorbara was saying? Maybe Mr Sorbara should clarify that, because he would know best.

Ms Gigantes: Mr Chairman, on a point of order: In part I wish to speak to a couple of the items which have been raised. I think I did indicate earlier that the purpose of the motion, in my view, was to focus the discussion. We have come to a section of the report which I think we all, on all sides, feel is critical to the shape of the report. It is one of the principles that we have to decide, and I have put forward a motion which I hope will help us decide that. As to what other members wish to do in terms of voting on it, perhaps if it is incorporated into the report, further elaborated by our staff and acceptable to at least the majority on this committee, if they then still have strong objections, presumably they can take action afterward.

On the question of going through item by item, I do not look upon this as a drafting exercise that we are into here. We are into the writing of a report; we are into deciding the basic principles that we would like to see reported for changes in the legislation, if changes to the legislation are what we adopt. I think as we go through certain sections, if people want to make motions on those sections, fine, but I do not think we have to invent the report as we go. I do

think we can count on the staff, as we have here earlier, to help us draft the report based on the principles that we lay out and the arguments that we use around those principles. Can I continue now?

The Chair: Please do.

Mr Sorbara: Just a final word on the point of order, Mr Chairman.

The Chair: I thought that the point of order had already been thoroughly discussed, and Ms Gigantes has the floor.

Mr Harnick: I personally am still waiting for clarification of Mr Sorbara's point of order, which I thought I had asked for. I am hoping Mr Sorbara will elaborate.

Mr Sorbara: Then with the permission of the Chair—

Mr Winner: Anything to play for time.

Mr Harnick: No, I asked. You guys are the ones in a hurry. I say do it right, but you guys just want to do it. If we are here to do this quickly, then why bother? You guys have seven people on the committee. Just put up your hands and then away we go. If you people want it to be done properly—

The Chair: Could we have a little bit of order here for the moment?

Mr Harnick: If you want to impute a false motive to everything that happens here, because you are so self-righteous, the bunch of you—

The Chair: Mr Harnick, please, we are trying to conduct a little business today. You were asking about Mr Sorbara's point of order, which had to do with the issue of what it was we were discussing. We had discussed that, I believe, in the sense that we were clearly looking at each section and coming up with recommendations, and Ms Gigantes had a motion in regard to this particular section. Ms Gigantes has the floor.

Ms Gigantes: I will wrap up very briefly. The final point I want to mention is this question raised by Mr Harnick of who is the final arbiter and what difference that makes to the approach he is willing to take on this whole question of conflict of interest.

In the conflict of interest act as we have it now, the mechanism is pretty straightforward. By various means, the commissioner can become aware of the need. He can be requested to meet the need for an investigation of a potential conflict of interest under the act. He has powers to investigate which are granted under the act, and they fall in line with the Public Inquiries Act.

When he has finished his investigation, depending on the nature of the investigation he has undertaken, he can report in various ways. In major matters, it is clear from the act that he would be reporting a major report to the Legislature. In this case, the final arbiter is the Legislature, as it is in so many of the other areas in which we have set up ways of monitoring and administering what we consider to be fair and progressive kinds of political administration in this province.

The formula is now a relatively standard one. It has been developed over the last 15 or 20 years, and I think on the whole it has served us well. I know of no particular

complaints under the existing act. If either of the other parties do, perhaps we should consider them, but the final arbiter on major matters will obviously be the Legislature.

The Premier is a member of the Legislature, and he or she will take a personal position which will have more or less effect among the various other members of the Legislature. Some of that may be overwhelmingly determined by party, and in other cases there may be different points of view from within parties. That has been the case before on other matters and will be again, I am sure, in the future.

I think the mechanism that is provided here is one that clearly identifies where the final arbitration occurs on major matters, and I think, given the fact that it has worked well, that is one we should continue to use in the act as we incorporate a wider mandate for the commissioners' work.

The Chair: Mr Carr?

Mr Carr: Yes, thanks, Mr Chair. I was—

Mr Mills: Are you with it?

Mr Carr: That is what I am just thinking.

Interjection: We are now back on the motion.

1650

Mr Carr: The only point I wanted to put in about this goes back to the part about divestment. As we look at the act, I go back to what the conflict commissioner said about the whole situation, which was that the requirement of divestment is draconian. The big concern I have when we incorporate these guidelines into the law is what he said, going way back during his testimony, and I am quoting now from Susan's fine summary of that day, "The proposed divestment rules will make it more difficult for all political parties to continue to recruit good candidates, and especially from among those who have accumulated assets, done well in their communities and are making a good living."

I think one of the things I was little bit surprised at when I came to the Legislature is how precarious your terms are in cabinet, and for various reasons—the Chair quit on us; I talk, he leaves—how difficult it is to remain in cabinet or get into cabinet. I was a little bit surprised at how easy it is to be removed from cabinet, and you can see an example of one of the members here, but also at a situation something like Mr Kormos's, where he is removed from his position in cabinet.

I was also a little surprised when we heard some of the testimony from some of the previous cabinet ministers. It was over a situation one of them related, that one day they were actually having a cabinet meeting, and by the time they had finished the cabinet meeting, that individual, who was participating in the cabinet meeting, was gone within a half-hour: one minute in the cabinet, the next minute completely gone. It was Hart of the previous administration. When you look at the amount of time it would take some of them to divest, that divestment within the time frame of the guidelines, as Judge Evans was talking about, may also result in the significant loss of value of an asset and result in what he called a distress sale.

What I am concerned about is that there are not enough people now willing to throw their hat in the ring and get into this game, unless they become so upset with what is

going on that they decide to do it. But I am worried, as the judge was obviously, that a lot of people are going to take a look at it and say, "No, I am not going to give up my interest in the corner store," or whatever it may be.

I was particularly interested when the judge said that divestment of certain assets may be necessary as a practical matter, but complete divestment is not a realistic option. We are asking people to jump into a situation, potentially give up what has been their livelihood and jump into the political game when the reward for getting in and getting into cabinet and really having some decision-making power is at best very precarious.

I just wanted to add those points, because as we sit and reflect, we should not only be thinking about ourselves, because quite frankly the three cabinet ministers who came in, Ms Lankin, Mr Wildman and Mr Laughren, all said they did not have anything anyway. I found it very strange that they came in and said: "Boy, divestment is the way we should go. We've got to divest, but I don't have anything myself." If we had been able to bring in some who were able to sit down and talk about it—and I am talking about putting in a preliminary when all three of them came in, and I can understand why they did. They did not want to have anybody who possibly had it.

But in our first go-around they brought in the Chairman of Management Board who is now the Health Minister, the Treasurer and also Mr Wildman, whom everybody knows for having been around here, of course. They brought in people who said, "Yes, divestment is the way to go, but I don't have anything to divest." If you had somebody who was able to come in and say, "I personally am going to lose a lot of money by divesting," then I think it would have carried a little bit more weight with the public. But to come in and say, "We're going to do this because of some perceived problems in the public's mind, but don't worry about it because I don't personally have anything to lose," I think there certainly would have been a little more credibility had somebody come in who had a great deal to lose.

When we heard this testimony, going way back, I think the big fear is that they sent some of the ones who are probably the best speakers and who would not get into trouble and say something wrong during this period of time. But if they had been able to send in somebody who said, "I've had this business but I really believe divestment should happen because I believe in it," then there would be some credibility. Poor Bud, he even laughed about it, as did the Treasurer. They even joked, if you remember correctly, about how poor they were. They laughed and made light of it. Here we are saying to the public, "Boy, we're going to come in with these tough guidelines. We're going to ask everybody to divest," but then the people who are going to be affected, it is not going to affect them.

I think we sometimes have to look past the present circumstances of some of the cabinet ministers and look to the future, take a look at somebody who may own a small business who is going to say: "No, that's it. I'm not going to get involved in the political process because I'm not going to give up all my hard-earned dollars and everything I've worked for." Remember, when you start a business you do give up a lot. I had one of the chaps in who owns a

small brokerage company, auto insurance, an insurance broker, and he said to me, "The thing is, when you start a business like this and it's just a fairly small office, what you give up is not just the time—because you give up the time away from your children that you never get back—it's not just the money, but it's the whole way of life that you put into a business." I think that is true.

What we are saying now is that we are going to take a part of the people of this province and say, "No, you can't get involved in the political process because you're going to have to give up something so personal." Although, as Mr Wildman said, the thing he gave up that was worth more to him than anything else was time with his children. Actually, I think members will remember he got rather emotional because he said, "I've spent so much time and that is something I'll never get back," and I guess his kids are fairly old now.

We are asking people to give up time with their families, particularly someone like him who spends so much time travelling from a distance. You are expected to give up all your financial rewards that you have worked for, completely divest and, as the judge said, do so at a distress sale where you are not even going to get fair value for what you have because of the fact there is the time limit.

I think what we should attempt to do is take a look at somebody who is trying to look at it from a non-political standpoint, who is trying to be helpful in some of his proposals and is saying, "No, we don't need to have complete divestment for this thing to work." As we sit back and reflect, I think we should not look at this current crop of cabinet ministers who come in and say, "Boy, divestment is the way to go but I don't have anything to divest." It just seems a little bit strange to me that we would take some of those comments and listen to them when in fact it is rather ironic.

Those are a couple of the points I thought I would add.

The Vice-Chair: I would like to remind the members at this time that there is a motion on the floor and can we please speak to the motion.

Mr Winninger: It seems that the opposition to the guidelines becoming part of the legislation is directly proportionate to the level of accumulated wealth that the member who challenges seems to have, including the guidelines in the legislation. I would like to clarify, if I may, for the member.

Mr Sorbara: On a very brief point of order, Mr Chair: There is a motion on the floor. My understanding was that there is a rotation between parties. The first speaker was Ms Gigantes on her motion. The second speaker was Mr Carr. I would think that if we are going on rotation, the next speaker would have been from the official opposition, that is, Mr Poirier or myself. Are we not going in rotation?

1700

Mr Winninger: The speakers' list was read earlier and there was no quarrel with the order.

The Vice-Chair: Mr Sorbara, I am going by the speakers' list, which I understand has been read. There will be rotation; no one party will have two speakers.

Mr Sorbara: Can I just get a better explanation of this? Are you somehow ruling that we are not speaking in rotation?

The Vice-Chair: You are up next, Mr Sorbara, if you do not mind.

Mr Sorbara: No, no. I do not care if I am next or ever. I am just trying to determine whether for some reason we have abandoned the system of speaking in rotation. Somehow you suggested at the end of your comments—

The Vice-Chair: My understanding is the speaking order has been read out, also that it is very casual and the Chair does try to alternate. Now we have alternated between the third party and the government side, and then we will come back to the official opposition, being very fair and alternating as we best can.

Mr Harnick: On a point of order, Mr Chairman: I think I heard you say that each party will be allowed to have one speaker speak to the motion. Does that mean that I am not able to speak to the motion?

The Vice-Chair: No. You did not understand what I was saying.

Mr Sorbara: Neither did I.

The Vice-Chair: What I am trying to say is that no party of the three will have two speakers back to back.

Mr Harnick: Oh, I see.

The Vice-Chair: We will move it around. Mr Winner.

Mr Winner: It is nice to have the floor again. I just want to clarify for the member for York Centre, who was delving into the esoteric area of the implications of income tax law on dispositions that members might be required to make when they become parliamentary assistants or even cabinet ministers. A suggestion was made that needs to be corrected that if a particular member sold a tangible asset and realized a gain from that, one quarter of that gain would be taxable, notwithstanding, as the member for York Centre pointed out, that there may be a mortgage on the property that goes back to the vendor of the asset.

I hasten to point out to the member for York Centre, having got my hands on the Income Tax Act of Canada, that section 40(1)(a)(iii)(C) provides that one may deduct from his capital gain "the lesser of a reasonable amount as a reserve in respect of such of the proceeds of disposition of the property that are not due to him until after the end of the year as may reasonably be regarded as a portion of the amount determined under subparagraph (i) in respect of the property."

So you can in fact elect a reserve, in which case your capital gain is diminished by the amount in that year that still remains to be paid as the proceeds of consideration for the purchase. I did not want anyone to be deceived by that argument. There is always some form of leniency in the income tax legislation to meet precisely these sorts of circumstances.

Mr Sorbara: Mr Chair, I wonder if you would allow me a comment on that, because I think—

The Vice-Chair: Mr Winner has the floor.

Mr Winner: Why do you not wait until your turn comes just as I have listened to you patiently and waited for my turn to come.

Mr Sorbara: Okay. I just thought we might have a discussion about that because there is a problem here, but I do not mind.

Mr Winner: Mr Chair, I wonder if page 133 of the Income Tax Act of Canada could be tabled for the purposes of this debate, and I will move on.

Mr Harnick: If that is the case, can we bring Arthur Scace to respond on that?

Mr Winner: Arthur Scace has moved on to bigger and better things.

In any event, getting back to the thrust of the motion. I had some misgivings at first in terms of these guidelines being incorporated into the legislation, but I am now persuaded as to the error of my thinking. I can see now that these guidelines could quite smoothly be incorporated into the existing Members' Conflict of Interest Act, as has been suggested by the member for Ottawa Centre.

In this particular case, as she has pointed out, the commissioner can conduct the investigation and report to the Premier just as he does right now and possibly may do in the future, and then leave it to the Premier to make the political decisions that have to be made once a report is in. As Mr Rae said in his oral submissions before the committee, this would extend the powers of the commissioner. So we do have the element of a third party dispassionately and objectively reviewing any potential conflict and then reporting to the Premier who can then enforce the guidelines.

I find it very odd that certain members of the opposition who oppose these guidelines should oppose them on the basis that we are setting a very high standard for ourselves here as members of government. What goes into law can perhaps be amended or deleted in the future, but these are the standards we set for our government, and fortunately members are able to comply with them. In the case of personal hardship, in the case where it is not against the public interest to make an exception to the guidelines, the Premier has the discretionary right to do so.

I would submit that there is no problem with these guidelines being incorporated into the legislation along the terms of this particular motion. Certainly there can be a working relationship, if you want to call it that, between the commissioner who investigates potential conflicts of interest and the Premier who is called upon to make the necessary political judgements when enforcing them and in certain selective circumstances to make exceptions to the guidelines, as our Premier has seen fit to do.

Mr Sorbara: Let me begin by just speaking for a moment to the references to the Income Tax Act made by my friend the member for London South. I will just wait until I have his attention and invite him to comment by way of interjection if he feels it appropriate.

I am really worried about your understanding of the guidelines if you are serious about the comments you made with respect to the mortgage back and deferring the capital gain. I say that because the requirement to divest of an interest in a business asset is the requirement to divest

of an interest in a business asset, and it would not permit the taking back of a mortgage, which is every bit an interest in a business asset as ownership in fee simple if it is a piece of land or ownership of the share.

In other words, if I sell my interest in a building and I take back a mortgage, for the purposes of these guidelines or for the purposes of the Members' Conflict of Interest Act I still have the very same interest in the asset, so the problem is that I cannot take back a mortgage. I have to find a purchaser who will give me all cash. I want to ask you the last time you acted in the sale of a significant business interest where the purchaser was able to pay all cash. If the vendor takes back a mortgage, he has not taken one step in compliance with the guidelines as set out by the—

Mr Winninger: On a point of personal privilege, Mr Chair: Mr Sorbara raised the hypothetical point where a member is forced to divest himself of an asset and not receive all the proceeds of consideration at the time of divestment—

Mr Sorbara: No, I did not.

Mr Winninger: —and commented on what the income tax implications might be. I was simply clarifying his hypothetical point. I was not saying whether a mortgage would be permitted or not under the guidelines. I was correcting a misconception that the member for York Centre raised. That is all.

The Vice-Chair: Mr Winninger, that is not a point of privilege. Mr Sorbara.

1710

Mr Sorbara: With all due respect, Mr Winninger suggested to this committee that someone could take back a mortgage in the asset that he sold and comply with the Premier's guidelines. That is just the kind of misinformation that seems to pervade this committee and the deliberations on what it really means to divest. You cannot sell an asset and take a mortgage back. You have to sell it and presumably get all cash. If you take a mortgage back, and Mr Winninger suggested that was okay, you have not done anything. You still have an interest in that asset every bit as much as if you owned it outright, owned 100% of the asset.

Now, to talk directly to the motion, equally, I think Ms Gigantes's motion indicates somehow that she either has not read the conflict of interest act or has not read the guidelines. I say to her and I say to the members of the committee, the act is a system, in a sense a closed system, requiring actually three things.

The first is full and honest disclosure of the interests of a member and a member of the executive council. The second is a burden on the member not to involve himself or herself in business activity. The first thing is disclosure, setting out in a document to the commissioner every business asset and every business interest that a member has. The second thing is a prohibition against participating in any business. That is there in the act. The third substantive requirement of the act is a prohibition against making a decision where the member is in a conflict of interest. Now the act also has a mechanism for the commissioner to arbitrate if there is an allegation made of a conflict. That is what the act does.

The Premier's guideline is a wholly different affair. It requires members to sell what they have. The commissioner has no business selling on behalf of the member, notwithstanding that she refers in her motion to reporting to the Legislature. More important, whereas the act sets up the commissioner as the person who conducts a hearing or receives the information on disclosure, it is the Premier in the guidelines who is the arbiter of whether or not a member will have to divest.

I am not sure what she means in her motion to say that the Conflict of Interest Commissioner will now—if I just might read the whole thing:

"That the proposed guidelines be incorporated into the Members' Conflict of Interest Act and that the mechanism of administration..."—I remind you, Mr Chairman, that the mechanism of administration in the guidelines is the Premier's ability to grant a dispensation or not grant a dispensation—"be the same as is currently in the act"—I am not sure what that means—"ie, through report to the Legislature by the conflict commissioner in the ways suggested by the act."

The guidelines say you have to sell what you have unless you get a dispensation from the Premier. Does she mean that we will do that except that the dispensation comes from the conflict commissioner, or that the conflict commissioner will advise the Premier as to whether or not a member should be absolved from the requirement to disclose?

It does not really make any sense, and it really does not make any sense when you get to the Premier himself. Who gives the Premier a dispensation? Who reviews whether it would be unfair or unjust to require the Premier to divest? Does the Premier sit in judgement of himself? Does this committee sit in judgement of the Premier?

Either way, if you want the answer, if you want to know what really should be done, what we should do is expand the disclosure requirements that are contained in the act, make them even more strenuous and, I tell my friend from Ottawa Centre, require that ministers, in the first six months that they are in cabinet, not sell all they have, but appear before the justice committee with their disclosure statements so that they can be cross-examined by members of the opposition. That is real parliamentary accountability. We do not have that yet, and we did not put that in when we were in office.

If you want to make the act stronger, do not require that the members sell all they have, particularly in a cabinet where the members who came to testify before this committee, as Mr Carr pointed out, did not have anything. It is pretty easy to say you are in favour of that act if it does not have any personal implications.

We did not have Zanana Akande appear before us. She refused to appear before us. We did not have Ms Ziemba appear before us. We conveniently avoided that. In fact, there is no one in cabinet who would be significantly affected by this. But if you bring people who are really affected by it before the committee, what we hear is that divestment does not make any sense. It did not even make any sense to Mr Winninger, who seemed to think that it was okay to take back a mortgage.

Mr Winninger: That was your idea.

Mr Sorbara: No, no, no. I said—

Mr Winninger: You set up a hypothetical.

Mr Sorbara: I know, and in the hypothetical that I set out, for a very specific reason—

Mr Winninger: We will do it as a point of order.

The Vice-Chair: It is not a point of order.

Mr Winninger: How do you know until I say it?

The Vice-Chair: Go ahead, Mr Winninger.

Mr Sorbara: The hypothetical that I set out—

The Vice-Chair: Mr Winninger has a point of order.

Mr Winninger: I may be repeating myself, but last time it was a point of personal privilege; this time it is a point of order.

I did not respond to your hypothetical by saying it is okay to take back a mortgage. I simply said the consequences under the Income Tax Act of taking back a mortgage mean you defer payment of capital gains.

The Vice-Chair: Mr Winninger, that is not a point of order. Thank you very much.

Mr Sorbara: If you want to continue trying to justify your interjection with the Income Tax Act, that is fine with me. This is the only context or forum where I am going to be able to make the point that the practical realities of requiring cabinet ministers, before they serve, to sell their business interests, and to do it in 60 days—my God, some people put their houses on the market and they do not get a buyer for a year, and there is a vibrant market for houses generally. To take a small business, or a 35% interest in a small business, and to say that the minister shall sell that in 60 days so that he can continue to serve is the height of stupidity. I mean, go to the marketplace and see whether you are able to sell that 35% interest in a business in 60 days. You will be the laughingstock of the marketplace.

By the way, Bob Rae, in his guidelines, is the laughingstock of the marketplace, because anyone who knows anything about business interests knows that no one in his right mind can unload himself of significant business interests in 60 days, and no one in his right mind would do that for the privilege of sitting, at the pleasure of the Premier, I remind the member for Ottawa Centre. Even before the 60 days is up, that member might be out of cabinet on his you-know-what. No one will do it. No one with significant business interests would bother even applying, and the reason is that it is completely out of whack.

I invite any of my friends who own a house to take it to the marketplace and say to the agent representing him, "I've got to sell this house in 60 days." You know what will happen. The agent will say, "I can get you about 50% of the real value if that is one of the criteria." Even more so is a business interest. I would love to be the vendor in that case.

The point is, in this motion we have a suggestion—

1720

Mr Harnick: You would like to be the purchaser. Not the vendor, the purchaser.

Mr Sorbara: I would like to be the purchaser. That is right. I am sorry. I thank my friend for the correction

Mr Winninger: You want to buy my law practice?

Mr Sorbara: Yes, in 60 days. I will give you about \$250,000 for it. I would simply suggest to the member for Ottawa Centre to have a very careful look at what the Members' Conflict of Interest Act says, have a careful look at what the guidelines say and move, in her motion, a way that the two could be justified. The conflict of interest act sets up a system of disclosure and a system of arbitration where an allegation of conflict has been made. That is the pith and substance of that act. It has nothing to do with the intervention of the Premier in arbitrating which of his ministers will have to divest.

I cannot for the life of me see how those two systems can be brought together. We could chuck both of them—that is fair, if that is what you want to do, chuck both of them—and write a new act requiring that ministers divest themselves of their business interests. But do that. Move that in the motion. Do not move a motion that says somehow compliance will be through the reporting to the Legislature by the conflict commissioner in the ways suggested by the act, because that is not what the guidelines say.

The guidelines do not involve the Legislature. They require particular members to do particular things, sell what they have. They provide for one person to give an exemption from that, and that is the Premier of the day. If Bob Rae, in this case, suggests that it is okay for the Minister of Community and Social Services to keep her buildings, then it is okay. The conflict commissioner does not enter into that. He just enters into that when someone alleges that she has made a decision to further her private interest.

We had an example of that with the famous affair of the directorships where she resigned by sending a note to her kids. That is what the conflict commissioner does. Under the guidelines, the Premier says it is okay. He has, by the way, said it is okay to have registered retirement savings plans. This is very bizarre, because in an RRSP you can hide or you can manage interests in virtually every public corporation in Ontario.

Mr Poirier: Including a self-directed one?

Mr Sorbara: Including a self-directed RRSP where you can be, in effect, personally buying and selling shares. I think probably the Premier is going to want to review that and review his determination that it would be okay.

Be that as it may, the guidelines require the Premier to make a determination. The act requires the conflict commissioner to make a judgement when an allegation of conflict has been made. I do not think the two can be married and I would simply invite the member for Ottawa Centre to withdraw her motion and perhaps submit some other motion that would suggest to the members of this committee how the Members' Conflict of Interest Act and the guidelines are to be integrated into one piece of legislation.

The Vice-Chair: Before we move to the next speaker, I would like to inform the committee that tomorrow we will be meeting in committee room 1 downstairs. It is air-conditioned.

Mr Harnick: Just continuing with what Mr Sorbara was saying, the member for Ottawa Centre indicated that, on her reading of the conflict of interest act, any final

decision would be a decision of the Legislature. That is not what the conflict-of-interest guidelines say. The investigation into the directorships of the Minister of Community and Social Services was an example of how the conflict of interest act works. The Premier, in response to a request, sends the matter to the Conflict of Interest Commissioner. The Conflict of Interest Commissioner prepares a report.

The Chair: Mr Fletcher.

Mr Fletcher: Are you finished?

Mr Harnick: I am not finished, but the Chairman is carrying on a conversation with the clerk and with Ms Gigantes—

Mr Fletcher: Nobody else is listening.

Mr Harnick: —two members are getting coffee, Mr Fletcher is telling me that I have said enough. What is the point of going on with this?

The Chair: Are you finished, Mr Harnick?

Mr Harnick: What is the point?

The Chair: Would you like to return to the substance of the discussion?

Mr Harnick: Yes, I would like to return to it and I think you should too. You are the Chairman of the committee. You are the one admonishing everyone to hurry up with their remarks.

Mr Fletcher: On a point of order, Mr Chair: I am a little tired of the disrespect being shown by Mr Harnick towards the Chair. I think there should be something done about that if it is within the Chair's power.

Mr Harnick: Why don't you throw me out the window, Mr Fletcher?

Mr Winninger: We would if we had a Sergeant at Arms.

Mr Harnick: At any rate, if I can continue, the Premier would then refer the matter to the conflict commissioner, a report would be prepared and then the report came back to the Premier, who decided whether to implement some form of penalty pursuant to the report.

The report that was done by the conflict commissioner for the investigation into the Ministry of Community and Social Services was merely a finding of fact the Premier had to act on; it was not a finding indicating a penalty that should be imposed. That aspect is left to the Premier. The situation would be much the same under the Public Inquiries Act. However, under the Public Inquiries Act the conflict commissioner could go ahead and indicate what the penalties should be pursuant to that act. It would then be up to the Premier to decide whether to impose any of those penalties.

So what the member for Ottawa Centre says in her motion is absolutely wrong. The Legislature does not make the decision. The motion should be redrafted. Furthermore, if we go ahead and vote in favour of this motion, we will end up with guidelines that allow the Conflict of Interest Commissioner to adjudicate in certain respects. But the final decision, in terms of every cabinet minister and indeed in terms of the Premier, would be decided by the Premier himself and not by the Legislature.

The remarks by the member for Ottawa Centre are absolutely wrong, and if that is what she has predicated her motion upon, the motion must be changed because the Legislature does not make the final decision. The final decision is made by the Premier. That is quite clear from a reading of the Members' Conflict of Interest Act. I urge the member for Ottawa Centre to read that act. I urge her to read the report the conflict commissioner prepared regarding Zanana Akande. That report dealt only with a finding of facts. The penalty imposed, if any, is left to the Premier, not to the Legislature. The Legislature has absolutely nothing to do with it.

Furthermore, if these guidelines become law, the Premier, who may be implicated in a particular situation himself, is the person who has to make the decision about what is hardship and what is a business interest. The Premier could decide at any time the definition of "business interest," if it is not within the purview of the conflict commissioner. So you are going to have an act that has a judge, who would be the conflict commissioner, who could make findings of fact; you are going to have within the same act the Premier able to make decisions with respect to penalty; and within the same act the Premier having the opportunity to redefine, based on whatever his whim of the day may be, what an asset is, what a liability is, what a financial interest is, what could cause a conflict of interest, what is a business interest, what is full disclosure, what is undue hardship, what is consistent or inconsistent with the public interest.

It would be the Premier who would decide what undertakings should be appropriate and necessary to avoid a conflict of interest. It would be the Premier who has to decide what business interests are permitted. The Premier would have to decide what persons would be at arm's length to a minister. All these things would be within the purview of the Premier and totally inconsistent with the existing Members' Conflict of Interest Act, so the motion as worded is not the proper vehicle to be considering what we have to consider.

1730

I urge the member for Ottawa Centre to read the Members' Conflict of Interest Act, to read the decision in the Zanana Akande matter to see how the Members' Conflict of Interest Act worked in that situation. I would urge the member to read the conflict-of-interest guidelines so she could see what would be avoided in terms of the conflict commissioner's authority and what would be left within the hands of the Premier and how that would be totally inconsistent with these guidelines becoming law as they are set out now.

I would also like to indicate to the members of the committee—and I believe this has been distributed to you all—a letter to the clerk of this committee, Lisa Freedman, on 23 May 1991, together with the conflict commissioner's redrafting of the conflict act, making the amendments he discussed when he appeared the second time he came here. Certainly those amendments and alterations to the conflict act should be considered by this committee, and certainly that consideration should take place within the context of whether we do or we do not make these conflict-of-interest guidelines part of the law.

I think at some stage it will be incumbent upon this committee to consider those recommendations for amendments to the existing Members' Conflict of Interest Act. But in the meantime, I would urge the committee and the member for Ottawa Centre to redraft this motion so that it does not read that the mechanism of administration be the same as is currently in the act, ie, through a report to the Legislature by the conflict commissioner.

The Chair: Mr Harnick, are you moving an amendment to the motion or simply asking the member to move the change?

Mr Harnick: I cannot do this quite as quickly as the member for Ottawa Centre. I think we probably have to sit down and consider how to word this properly, once we decide in principle that we may or may not want to make this part of the existing law. But certainly the motion is very premature, in that it states that the mechanism of administration be the same as is currently in the act, ie, through a report to the Legislature by the conflict commissioner in the ways suggested by the act, because the ways suggested by the act are totally different in fact than what the member for Ottawa Centre said they were when she described them as being merely something that will be a final decision of the Legislature. That is not what the act says. She is wrong.

She should at least amend this motion so that the mechanism she is talking about is in compliance with what the act really does; or let's propose amendments to the conflict of interest act, if that is our mandate. This is totally in contradiction to what the conflict of interest act says, and it is certainly totally contradictory to what the member for Ottawa Centre described as how this act—and I am referring to sections 16 and 17 of the Members' Conflict of Interest Act—in fact operates.

Mr Fletcher: I have listened intently, almost, to most of what the opposition has been saying, and it does not make that much sense. They had, combined, 48 years to do something about conflict of interest and they did not do anything. Now I am hearing them say, "What we really should be doing." It is not up to you what we should really be doing; it is up to the governing body of the day.

Mr Carr: We are elected members too, Derek. Don't we get a say?

Mr Fletcher: The government of the day is saying that as far as conflict-of-interest rules are concerned, this is what we think we should be doing and this is the way we want to go. The reason we are going this way is because of what has happened in the past. In the past it has been the conduct of some members—

Mr Harnick: Name one instance—

Mr Fletcher: —of all parties, of all political stripes—

The Chair: Mr Harnick, Mr Fletcher has the floor.

Interjections.

Mr Morrow: On a point of order, Mr Chair: Does Mr Fletcher not have the floor?

The Chair: He does.

Mr Morrow: Thank you very much.

Mr Fletcher: It has happened in the past where there have been some problems and people have used their office wrongly, and that happens—

Mr Harnick: Name one.

The Chair: Mr Harnick.

Mr Harnick: You cannot make those allegations without backing them up.

The Chair: Five-minute recess.

The committee recessed at 1737.

1741

The Chair: We are resuming. Mr Fletcher, you have the floor.

Mr Fletcher: As I was saying before we stopped, the conflict-of-interest guidelines right now are for parliamentary assistants and ministers. If the minister or if the person who is elected does not wish to be in cabinet or be a PA, he would definitely say that this is the reason he does not want to be in cabinet or be a parliamentary assistant. They have that option. If they really want to be in cabinet they divest of their interest.

I am going back to what the Premier said when he was here and when the question was put, "Should the guidelines be extended to apply to all members of the Legislature?" He said: "Additional guidelines should apply to all members. However, complete divestiture could not and should not reasonably be expected to apply to all members. It would be unduly difficult and an undue imposition on a member." Therefore, I cannot understand why the opposition is saying that good quality people would say, "I am not going to run for public office because of these guidelines."

As I say, it only applies to parliamentary assistants and to ministers. That thinking and that kind of talk is not what the Premier has been saying. I have no problem with the motion that is on the floor. In fact, I think we should have a vote on the motion on the floor. If need be, I will gladly call the question.

Mr Poirier: Would you mind if I take a couple of minutes? I think I am on the speakers' list.

The Chair: You are indeed, sir.

Mr Poirier: I want to confirm again what the member for Ottawa Centre was proposing, that her motion was going to concern only ministers and PAs, not all 130 members, right? Could she answer that question for me because that might colour—

Ms Gigantes: If it is helpful at all, I felt it was important that we get to deal with the principle of whether we are talking about legislation here or not. How you want to define what is covered in that legislation should come after.

Mr Poirier: Fair enough. For the benefit of the member for Ottawa Centre, I want to state that I still believe, with all due respect, that what the conflict commissioner has been doing with the act before and the immense respect there has been for the commissioner—we have heard the witnesses come forward and whether they were former members or others, including the conflict commissioner, obviously between the perception of what the people have on the outside and what the reality is as to the honourable

status of members past and present of all three parties, I still believe that to add the guidelines to the conflict commissioner's mandate is overkill.

I want to repeat to my friends from the government party right now that eventually there will be a provincial election. We do not know what is going to happen, but should the people of Ontario perceive that it is time for a change—you will obviously not feel that way yourselves—and should, in September 1992 or whenever, the same thing happen to you that happened to us back in last September, I know—

Mr Morrow: In 1992?

Mr Poirier: Whenever that is. I do not know. Do you know the date? I do not. If you do, let me know. I will get ready for it.

Mr Fletcher: Get your signs.

Mr Poirier: That's right, yes.

I think you would go to bed that night and the following week and the following months knowing what is important to you. When you reassess what you have done in government in your mandate, you will state, "What is important for me and my evaluation of what we have done or how we have been individually or collectively is the truth as opposed to the perception." We know something about that and maybe you will know something about that at the next provincial election.

I can imagine talking to you afterwards. You will say, "What counts is the reality of the situation, not what people perceived." I hear you say that it is important, that you are moving to do this because of what people perceive to be conflicts of interest with the act and including the mandate of the conflict commissioner in place. I still believe, with all due respect, that what you are doing is going to discourage a lot of good people. Regardless of which party, it does not matter, regardless of the individual, when you look around the House at all 130 members, they are all honourable members and none of us care what they own or what they have. They are here because they are committed individuals. Who gives a damn what they have or do not have?

I have always felt that with the current or any other conflict commissioner, that person, he or she, could make sure, with the act, that those who did not comply would suffer the full wrath of the act, and they should. But I repeat, it has not been done before. We have not seen that. I am very afraid that this is a very much misguided, zealot-like intention to add the guidelines to the conflict commissioner's mandate. I will be voting against this motion, with all due respect and with my conscience very clear.

To any person across Ontario or anywhere else around the world coming forward and standing in front of me and saying, "The members of the House are not honourable," I will say, "Baloney." I will think of all members of all three parties and I will ask that person to point out to me one indication within memory, however far back he wants to go or in the current situation, to name me one person who, with the current act and the current commissioner and the current mandate of the conflict commissioner, would not be designated as honourable as per the stand of time. They will not be able to name me one person in our collective time here or before, as we heard from the witnesses.

Mrs Mathysen: I have listened with great patience over the last four months and we have considered a great deal of testimony. I would concur with Mr Fletcher that it is time to call the question regarding this motion, so I move that we call the question.

The Chair: All in favour of moving the question?

Mr Poirier: I have been requested to call for a 20-minute period to gather the troops for the vote.

The Chair: You are asking for a 20-minute division on the question?

Mr Poirier: On the vote.

The Chair: For 20 minutes? We are adjourned until tomorrow after routine proceedings in committee room 1, which is air-conditioned.

The committee adjourned at 1750.

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Standing committee on administration of justice

Conflict-of-interest guidelines

Comité permanent de l'administration de la justice

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Tuesday 11 June 1991

The committee met at 1609 in committee room 1.

CONFLICT-OF-INTEREST GUIDELINES

Resuming consideration of the Premier's conflict-of-interest guidelines.

The Chair: I would like to call the proceedings to order. The first issue we have to deal with this afternoon is the question raised of whether the question should be put. All those in favour of the question being put please signify. Opposed?

Mr Sorbara: Can you just review with me, Mr Chairman, what you are doing here?

The Chair: Question.

Mr Sorbara: Is this another little closure motion?

The Chair: Moving right along we now have the question, which is Ms Gigantes's motion. Would it be helpful to have that motion read out again? Ms Gigantes, would you like to?

Mr Sorbara: Generally the Chair does that.

The Chair: I appreciate that. However, would that be helpful or should we just move on to the vote?

Interjections: Move on.

Mr Sorbara: They won the vote for closure?

The Chair: Just did, yes. All in favour of Ms Gigantes's motion?

Mr Sorbara: There is a 20-minute bell on this. No, if you are going to use closure—

Interjection: We did not use closure.

Interjection: No, not on this vote.

The Chair: We are voting. We are in the midst of voting.

Mr Sorbara: Hold on a second, would you, Mr Chairman?

The Chair: The question was put.

Mr Sorbara: So it shall be war between us.

The Chair: All in favour of Ms Gigantes's motion? Opposed?

Motion agreed to.

Mr Sorbara: Mr Chairman, could you explain to me the effect of Ms Gigantes's motion? We are discussing. We are looking for commentary. We are writing a report. What is the effect now of the passage of that motion on the writing of this report? Do those words become part of the report or what? Could you just explain that to me?

The Chair: I believe the intent of the motion was to request both that a change be made in legislation and that the mechanism of the administration of that change be the same as was earlier the case with the Members' Conflict of Interest Act, as passed in 1987, I believe it was.

Mr Sorbara: That would not be my interpretation of the motion. I think there is some confusion. My problem is that as I read Ms Gigantes's motion, it called for the integration of the guidelines into the Members' Conflict of Interest Act with the same mechanism for administration; that is, the Conflict of Interest Commissioner through a report to the House. I think that puts our researcher in a very difficult situation, because if you read the two acts they cannot simply be melded together like that.

Mr Winninger: Only one act.

Mr Sorbara: I will be glad to hear from you when I am done. A motion calling upon the government to present to Parliament a bill which would amend the conflict-of-interest act and provide, in effect, a new direction for it—that is, the requirement for ministers to divest—would probably have been an appropriate motion and would have answered the question that arises in the commentary. Unfortunately, that is not what happened. What happened is we passed a motion calling for something that simply cannot be done.

Mr Morrow: On a point of order, Mr Chairman: Excuse me if I am wrong, but did we not properly debate this and vote on this, so basically are we not discussing now something that has been voted on and duly dealt with?

The Chair: Are you suggesting that a continuation of this debate would be out of order as it is on an issue that has already been resolved?

Mr Morrow: Yes.

The Chair: You are right.

Mr Sorbara: What are we doing? We are in the midst of writing a report, sir, and we have just passed a motion which requires this committee to recommend the integration of one set of guidelines requiring the Premier to make judgements and decisions and requires certain things of his ministers with an act which has the commissioner do a set of very different things; that is, receive disclosure statements and make interpretations based on allegations of conflicts of interest.

Ms Gigantes: On a point of order, Mr Chair: I think it is essentially the same point of order as was raised earlier. What Mr Sorbara is suggesting is that we have somehow made a misstep here. He is suggesting that we have not answered the question to which we were addressing our minds, which is the question outlined on page 6 of the draft report.

The question, I will remind him, is "Guidelines or Legislation—Political Versus Legal Accountability." The motion we passed addressed that question. I suggest we move on to part II of the report.

Mr Sorbara: I would agree with Ms Gigantes if her motion were simply recommending that this report contain a recommendation that the guidelines of the Premier be

incorporated into legislation. That would have been fine. My difficulty is that the motion went on to suggest that the enforcement or administration of those guidelines be consistent with the Members' Conflict of Interest Act. Then it said, "ie, through report to the Legislature by the conflict commissioner."

That part of it is inconsistent with what the conflict-of-interest guidelines themselves say, which is that the responsibilities thereunder shall be in the hands of the Premier. Let's put the question to Ms Swift, if we can, if what this committee is going to be recommending makes sense to her. Mark, if you will wait a second and just try to understand the point I am making, maybe you can come up with the response and withdraw that motion and just have a motion simply saying—

Ms Gigantes: Not on your life.

Mr Sorbara: Okay, "Not on your life," she says.

The Chair: I think the member has a point and it has been recognized. I think the issue you bring forth, sir, is a very valid one. I hope it could be either incorporated in terms of changes or some of the input to other points in the report.

Interjections

Mr Sorbara: Mr White, how would you like it if I just finish the point and then perhaps we could have a discussion about it? I would prefer a discussion about it rather than just interjections or points or order. It is a real problem. I am not sure what you want to recommend.

Ms Gigantes: On the same point, all we are saying is that we had this discussion. Mr Sorbara may not have graced us with his presence for this discussion, but we had this discussion yesterday.

Mr Sorbara: I was here for virtually all of the day, my friend.

Ms Gigantes: We considered—

The Chair: But I have also ruled on a point of order.

Ms Gigantes: —this very line of argument yesterday from Mr Harnick.

The Chair: Can we adjourn this discussion? The point of order has already been ruled on. We should move on to the next section, please, the issue of political versus legal accountability.

Ms Gigantes: Good. Part II.

Mr Sorbara: If we are going to do this by way of points of order, on a point of order, could I then find out from the committee, its Chair, its clerk, its researcher or any of its government members how this committee intends to blend, in the report and through recommendations, two very separate systems, one which has an enforcement mechanism through the Office of the Premier, and the other which has an enforcement mechanism through the commissioner? You cannot have both. The commissioner is an independent officer who reports to the Legislature. The Premier is a politician elected by the people and makes his decisions as to who is and is not in cabinet based on political considerations.

Ms Gigantes: On a point of order. We rehearsed this discussion yesterday.

The Chair: These are not points of order.

Ms Gigantes: Then I hope we will move forward.

The Chair: The issue Mr Sorbara raises is dealt with to some degree in the next section we are about to deal with.

Ms Gigantes: Was that not dealt with in our discussion yesterday?

Mr Sorbara: Could you reiterate your answers then, Evelyn?

Ms Gigantes: No, you can look in Hansard. We want to move on.

Mr Sorbara: Why? Are we so intractable on this that you cannot even tell me what your view is on that? I do not understand.

Ms Gigantes: Clearly, it is not your intent to finish a piece of work; it is ours.

Mr Sorbara: Am I going to get an answer from the researcher?

Ms Gigantes: No.

The Chair: Can we move on to the application of the guidelines or whatever we want to refer to them as? First off is the issue of the parliamentary assistants, the discussion, recommendation with regard to the application of guidelines to that group of people.

Ms Gigantes: Again, we had some limited discussion of this point last week. During the discussion of the subject, I indicated it was my strong feeling that parliamentary assistants should be covered by the guidelines. Parliamentary assistants are in a special place among members of the Legislature. As a result of their connection with ministerial work they have information not available to others. I think it is important that people feel they do not have interests which are going to be in conflict with that work and with the information to which they have access. So it would be my suggestion that the changes we are proposing should be extended to parliamentary assistants.

Mr Sorbara: I want to begin by saying that the guidelines are currently extended to parliamentary assistants. It has not seemed to have much effect on the conduct of parliamentary assistants. It has not had much effect on the willingness of the government members of this committee to have a substantive discussion of the matter. I raised a simple point that I was confused on, based on the last vote, which was taken by way of closure, and I think it is terribly unfortunate that this committee does not want to enter into a substantive discussion of it. I would move adjournment of today's proceedings.

Mrs Mathysen: Mr Chairman—

Ms Gigantes: You cannot debate that.

Mrs Mathysen: We have been discussing this—

Mr Sorbara: There is no debate. I have a motion on the floor. It is a 20-minute bell.

The Chair: There is no debate on a motion to adjourn. The motion has been made. There is a 20-minute bell on a motion to adjourn.

The committee recessed at 1620.

1640

The Chair: We are presently voting on Mr Sorbara's motion to adjourn. All in favour of adjournment, please signify. Opposed?

Motion negatived.

The Chair: Can we move on now to Part II, the bottom of page 8, the issue of whether parliamentary assistants should be included. Ms Gigantes has spoken to this already, and I believe Mr Sorbara has as well. Is there a motion in terms of recommendation?

Ms Gigantes: I wonder if there is a consensus that it should be applied to parliamentary assistants if applied to ministers.

Mr Sorbara: I think we have a little bit of difficulty here. For our party's part, we agree that the guidelines that apply to ministers in the main ought to apply to parliamentary assistants as well. However, I guess we do not have consensus, because the guidelines the government is suggesting ought to apply to ministers, which guidelines it suggests now should be put in the form of statute, we do not believe should apply to ministers, so we do not believe that they should apply to parliamentary assistants either.

The answer to the question, should guidelines apply to parliamentary assistants in the same fashion as they apply to ministers, is yes. Unfortunately we are talking about a different set of guidelines. So we would not favour—

Interjection.

Mr Sorbara: I am sorry, sir?

The Chair: Mr Sorbara still has the floor, Mr Mills.

Mr Mills: I was sort of thinking out loud, not arguing.

Mr Sorbara: Those are our comments on this section. I think some of the difficulties the government is going to find—I guess maybe they do not even care. Hello, is anyone there?

Mr Mills: I am listening.

Mr Sorbara: Okay. If you get one, that is good.

Let me tell you the problem you are going to have if you take the position that the guidelines, as contained in the document submitted by the Premier of the province and which you want to put into legislation, should apply to parliamentary assistants as well.

Under the protocol adopted by the previous government, David Peterson—you remember him then, the member for London Centre, and during that time Premier of Ontario—decided he would use the office of parliamentary assistant as a sort of important experience or training ground for MPPs. So he decided that every year—it did not matter how well you did or how poorly you did—he would change the parliamentary assistants. One year you might be the parliamentary assistant to the Attorney General and the next year you would not be, but you might be the chairman of a committee or you might be nothing at all, and you might be appointed a minister of the crown.

He did not have that same regime for ministers. Once you were appointed minister, generally you stayed there unless you ran into a problem like Ms Gigantes ran into or Mrs Smith ran into in the previous administration or whatever. But generally, if you were a minister, you were a

minister until for some reason there was a want of confidence in your ability.

I do not know what Bob Rae has planned, whether he plans on rotating parliamentary assistants or not. I thought it was a good idea, and I know that in my five and a half years as a minister, I worked with—well, in some cases I had two ministries; in fact, for most of the time I had two ministries, so I would have two parliamentary assistants and they would change at the end of the year.

If Bob Rae decides to adopt that sort of system, and I think it was a pretty good system—there is nothing political about it; he might want to do that—what MPP in his right mind, if he has any business assets at all, would sell them in 60 days so that he could be parliamentary assistant for a year? Think about it.

I am not talking about a law practice that you can go in and out of with some facility and some flexibility. I am talking about a real going concern, let's say a car dealership that is doing well and making money. If you got in government, you might want to place that in trust, because obviously once you are down here, you are not going to get in the business of selling cars. But if you had a car dealership and Bob Rae called you into his office and said, "David, my boy, you are going to be parliamentary assistant to the Minister of Health," and you said, "Oh my goodness, Premier, that's very generous of you," and you are only going to be it for a year, what you will have to go and do in 60 days is sell your car dealership. Get it on the market right now; get a quick sale. Remember, you cannot take back a mortgage, because that is an interest in the business, so you have to sell it for cash. You have to get completely out of it.

If this mythical MPP said, "Oh, that's a great deal," my God, I do not know if I would want him to be a parliamentary assistant in Ontario. He would have to be completely nuts to do that.

Mr Winninger: Are you saying we are out of our minds?

Mr Sorbara: David, what I am saying is that you are proposing right now—and probably you are going to pass it—that these same rules ought to apply to parliamentary assistants, and I will bet \$20 that if that is proposed, none of you will vote against it, not even Gord Mills, who knows better.

If the Premier adopts a system that has you as a parliamentary assistant until you scandalize the public record or make an inadvertent accident, then maybe you would want to have the guidelines apply to parliamentary assistants. But maybe what you would want to do here in this committee—and we will leave if you want us to leave—is to have a discussion among yourselves as to whether you really want to apply those rules, or you might want to suggest to the Premier very gently, "Premier, if you are going to be switching us around every year, maybe it would be a little bit too much to ask us to sell our businesses."

It does not matter if you do not have a business. It does not matter if you are a teacher or a broadcaster or a lawyer or a nurse or a doctor. Poor Perruzza has to sell some

two-bit interest in some two-bit piece of land up in King township. That is silly. Why does he?

Mr Winninger: I thought that was Mammoliti.

Mr Sorbara: No, that is Perruzza. Why does he have to do that, as if somehow he is going to abuse his office to enhance the value of his land? But he is a parliamentary assistant, you see.

Mr Mills: What about the hardship rule?

Mr Sorbara: Gord, you raise a good question, the hardship rule. I think that leaves it too much at the discretion of one person. I disagree with the hardship rule.

Think of the problem a Premier faces, and I will just use you as an example. Let's say he really wants you in cabinet. You represent an important riding, your political experience is good, but you have this problem that you have significant assets that the new law says cannot be placed in trust and away from you; you have to sell them. Right away, I think the Premier himself has a conflict of interest because he has to make a decision about hardship, and in doing that he really is going to think about how badly he wants you in cabinet. Greg Evans would not do that because Greg Evans is not making up the cabinet. That is why I disagree with the Premier setting out in the guidelines his ability to make an exemption based on hardship or whatever, so I would take that out completely, but you guys are going to be writing the report.

Ms Gigantes: On a point of order, Mr. Chair: I think what Mr Sorbara is doing is once again entering into argument on the previous question, which has been decided.

Mr Sorbara: Can I know under what standing order this point of order is taken?

Ms Gigantes: Yes. It is that you are being redundant in arguing—

Mr Sorbara: Is that a standing order?

Ms Gigantes: You are being redundant in arguing a matter which has already been discussed and decided. What you are attempting to raise is the issue of to whom and how the administration of the amended legislation would be responsible, and we have just decided that in the previous question. The question before us is, shall it apply to parliamentary assistants?

The Chair: Ms Gigantes, I think you are absolutely accurate that Mr Sorbara is being repetitive. However, he is being repetitive with regard to parliamentary assistants, not to the earlier question, and he does still have the floor.

Mr Sorbara: Do you know what? I am just not going to be interrupted over and over again on points of order. I am going to move that this committee adjourn and I am going to ask for a 20-minute bell. I am really serious about trying to make some points here. I do not mind a discussion, but I am not going to be interrupted, sir, every time I am trying to make a point.

You guys are going to write the report, okay? We have agreed on that. I am just trying to tell you, in a substantive way, the difficulty that you get into in respect of parliamentary assistants, and I was about to conclude my remarks. I can do so in 20-minutes' time if the vote is lost.

Ms Mathysen: If we believed you were about to conclude, we would be candidates for swamp land. We have listened to this since February.

Mr Sorbara: My dear friend, you are a candidate from swamp land.

1650

The Chair: We have not had intervening business since the last adjournment call.

Mr Sorbara: We most certainly have. We have moved on to the next section.

The Chair: You, sir, had the floor at that point and we have not had intervening business. Your adjournment motion is out of order.

Mr Harnick: On a point of order, Mr. Chair: I think it is quite clear that intervening business is merely resuming the debate. Because the debate has been resumed, it would be in order to adjourn the debate or ask to adjourn the committee hearings for the day. I suppose Mr Sorbara, if he wanted, could adjourn the committee for the day as opposed to adjourning the debate.

Mr Winninger: Do you have some place you would rather be?

Mr Harnick: No, I am easy. I do not have any particular qualms about whether we adjourn or do not adjourn. But I think it was quite clear—I guess it was over the month of May—that the Speaker ruled numerous times that resuming the debate was in fact intervening business and accordingly that the motion would be in order.

I am sorry the chairman was not listening to my point of order, but what I was saying—and I apologize for having to repeat it again—was that the fact we resumed the debate has been ruled by the Speaker to be intervening business.

Mr Sorbara: And we actually moved to a different section.

Mr Harnick: We, I believe, adjourned last time when Mr Sorbara brought a motion prior to beginning the discussion about parliamentary assistants. We now resume the debate. He has made a speech about parliamentary assistants. That is now the intervening piece of business. I think the standing orders make it quite clear that he is now entitled either to adjourn the committee or to adjourn the debate. The Speaker has made that quite clear in the Legislature, and unless you can point to another section being the applicable section of the standing orders, I think his motion is in order.

Mr Mills: Where is he getting this?

Mr Harnick: I suppose he watched the House leader of our party do this for a month and it rubbed off on him.

The Chair: As you are aware, there were different adjournment motions. You have made that point in the earlier part of your point of order.

Mr Harnick: Before we argue further, perhaps we could take a moment and obtain a copy of the standing orders. Maybe that would answer the question.

Ms Gigantes: Could I make a suggestion? As there is a determination by opposition members that we shall adjourn for at least 20 minutes, we could use the 20 minutes

to do precisely what has been suggested by Mr Harnick, which is to obtain a ruling or a recommendation from the Speaker's office and then, no matter what, come back in 20 minutes. At least we will have that advice with us.

Mr Harnick: The effect of all of this has been that we have wasted 30 minutes.

The Chair: If you wish to research the issue, perhaps what we could do is—

Mr Sorbara: Could the clerk help us out on this?

Clerk of the Committee: The only help that I can give you is that the Chair rules on motions.

Mr Sorbara: With the advice of a wise clerk.

The Chair: Which is what I was seeking. My apologies, Mr Harnick.

Mr Harnick: Do you have a copy of the standing orders?

The Chair: Do you wish to recess for a few minutes to consult those?

Mr Sorbara: Mr Chair, it was my motion and I had the floor, so I will withdraw the motion for the time being and continue my remarks on parliamentary assistants—

The Chair: Fine; thank you.

Mr Sorbara: —much to the chagrin of my friend, the member for Ottawa Centre, who will probably find a way to intervene on some point of order or other. I just say to her that I was trying to make a substantive comment in respect of parliamentary assistants based on our experience as a government. You will probably include in the report a recommendation that parliamentary assistants be bound by the same guidelines. I am suggesting to you that this is bad public policy.

But above and beyond that, I think it is clear that there are many elements of bad public policy contained in the guidelines. I think that was apparent from the first, and it was a political exercise rather than an exercise of substance. Again, for my money, if you want good public policy, you will have a system of public disclosure that is second to none. We do not quite have that yet in the province, but I think we are going to get there. I think that one day public disclosure will actually include a requirement that a committee of our Legislature have the authority to call before it ministers of the crown to examine them periodically on their public disclosure document and their conduct as ministers in this general area of conflict of interest.

In fact, in the United States jurisdictions, and certainly in the federal US jurisdictions, the ratification process of senior ministers—all ministers, I guess, but only some of them are high profile—is probably where we are going. But you will notice that neither in the US nor in any other British parliamentary jurisdiction do we have this foolhardy suggestion that the ministers sell what they have and divest themselves of what they have so that they can serve at the pleasure of a leader.

I do not think we are going to get any farther on this committee. I do not think we are ever going to have a reasonable discussion. I do not think the government members of this committee are interested in listening to the opposition and to our experience, nor do I think they

are interested in listening to the Tory members. I think we have a fundamental disagreement. I think your instructions are to support the notion of divestment, and to recommend to the government that it come back with a bill in that regard.

I do not think we are going to spend our time fruitfully here any more, so I am going to suggest that you folks prepare the report you want to prepare. We will have a look at it. I know our party is interested in submitting dissents on many of the sections that are contained in the document. We may combine our efforts with the third party; we may not. We have not decided that yet, but I, for one, do not want to play this any more.

I regret, to tell you the truth, that you are not interested in taking a broader view. The whole thrust of parliamentary democracies right now is for greater freedom of the representative. By the way, that is one of the things that Preston Manning is using in a magnificent way. It is catching fire all over the place. As we talk in our own party about the reforms we are going to be advocating, each of the leadership candidates is talking about how he would make Parliament different, giving MPPs greater freedom and independence to affect public policy.

The experience on this committee, and this is only my second bill in committee—support and custody orders enforcement was one, and this is the second initiative in committee. I think it is too bad that we could not have had an independent kind of parliamentary approach to it, that the word is—from David Agnew or from whomever—that you will call for the guidelines as they were presented.

Mr Morrow: On a point of privilege, Mr Chair: The member across is assuming an awful lot by suggesting we have marching orders. He is also assuming we are not here listening. I cannot speak for the rest of my colleagues, or I possibly can. We are sitting here and we are listening. I really take personal offence at that.

Mr Sorbara: I am sorry my friend the member for Wentworth East takes personal offence. It is not meant to be personally offensive; it is a comment on the way in which we are doing business. I think it is too bad, but you have to understand my perspective. I just do not see any purpose at all in participating in a discussion of this report and the making of recommendations. We could go back and have witnesses. We could call witnesses from every single jurisdiction in the world, and if the overwhelming evidence was that these guidelines are ill-advised, it would not make a whit of difference. We only had one witness here.

Ms Gigantes: Does Mr Morrow have the floor?

The Chair: Mr Morrow raised a point of privilege.

Mr Sorbara: In any event, I am going on too long on this. I just simply suggest that you folks get on with the writing of the report and we will get on with the business of preparing a dissenting report. That probably will take us several days, and we would probably want a few days after the recommendations you come up with are in writing. We will have a look at those. We will get the document translated and we will get it submitted.

1700

Ms Gigantes: If I understand what the opposition is offering, it is that the government members of the committee indicate to our staff what recommendations would be made on the sections of the report which are still outstanding, and that report then would form the basis of the report of this committee. If opposition members disagreed with any point in that report, then they would prepare their dissents.

Mr Harnick: Certainly that would be the most productive way to proceed right now. We have gone through the items that were really the pith and substance of the conflict-of-interest guidelines. I do not think the balance of the items is going to change what has been decided up to now.

If we do proceed this way, I would expect that we would see your report within the next couple of weeks and thereafter we would be in a position to respond to it. Our reports would then be, I guess, tabled with the Clerk of the House when the Legislature resumes in September. Is my understanding correct or incorrect?

The Chair: I believe that in other committees, in dealing with other issues, such as 123 items, all three caucuses submit different recommendations, subcommittees deal with them, and then they are brought forth to the committee as a whole for final debate, with the potential of course of a dissenting report. So the preparation of differing recommendations is not at all—

Mr Mills: Novel.

The Chair: —novel, no.

Mr Harnick: I did not mean to assume that we were talking about anything novel. What I am talking about is what we will be doing in this committee for the balance of the time until the House rises on 27 June.

Ms Gigantes: What the committee does after this, we can discuss afterwards, but what we have had as a suggestion is that the committee proceed by way of having the government members indicate to staff what decisions should be made on the questions in the draft report, that the report be drafted and that the members of the opposition then have a chance to prepare a dissent.

I am going to propose that it probably would not be necessary, in terms of the body of the report, to wait until there is a complete redraft if the members of the government could quickly indicate to members of the opposition what decisions we would recommend having in the major body of the report on those remaining items. That would give members of the opposition an indication of what points they might wish to raise in dissent, and it would mean that we would be able to report this matter out to the House relatively quickly, I would hope.

The Chair: Indeed it has been before the committee for a lengthy period of time.

Mr Harnick: I have some concern about that, only in the sense that the suggestion really precludes the opposition parties from considering the report before they have to make a determination about whether they wish to prepare a dissenting opinion. I think that in itself is unfair. I would like, certainly, to see the report. There may be many aspects I

agree with and there may be many aspects I disagree with, but I cannot make the determination about how I would prepare a dissenting report until I have the opportunity to read the report that the researcher, Susan Swift, is going to prepare for the committee. I think it smacks of just being blatantly unfair to even suggest that we be in a position to write a dissenting opinion when we do not see what the majority opinion is going to hold.

Mr Sorbara: I was not suggesting any extraordinary procedure for this committee. If that was the impression the other members of the committee got from my comments, I am sorry for that. What I was suggesting was that from my perspective and the perspective of my party, there is not much use participating any more in this discussion of comment and recommendations on the report. It seems to us that the government has made up its mind about what it wants, that the suggestions we might bring, whether they are on parliamentary assistants or otherwise, are not going to be relevant to what recommendations are going to go in. I am saying that for our part we will just hightail it out of here, the government can write its report, we will have dissenting comments to make on a variety of elements of the report and then it will be tabled.

Whether that takes two more weeks or three more weeks, what I am trying to say is that it is not going to take much longer to complete the work on the report, at least if the comments from our party have anything to do with it, because they are futile. They do not get us anywhere. They do not move the process along. They just delay. You do not really want to do very much other than to say: "This is very good stuff. These guidelines are so good they should go in legislation. We think basically the Premier's office and the Premier's advisers on this matter had it right."

We say no, they did not have it right. We say that the balance of evidence before this committee and the evidence from jurisdictions around the world supports our view; it does not support your view. But maybe your view is a foretaste of the future, where we are going. I hope not. I hope we do not start excluding people from public office in the way Gregory Evans thinks these guidelines might do.

But for all of that, you won on 6 September and you have the right to insist that reports and recommendations be as you are ordered or as you want to have them. Maybe you really do believe in the recommendations you are going to make. That is fine. What I lament is that we could not have had a free-wheeling, rather independent discussion of these matters apart from the directions that our parties have given us. For my part, I have not even talked about this matter with our leader. I have no idea how he really feels about where we should be going on this. I just come here whenever the committee is meeting and I am in town. I thought we might be able to get somewhere on this one.

We did not get anywhere on the support and custody orders enforcement legislation. I guess that was okay. SCOE is not a bad bill. It has some bad elements and we tried to fix up those bad elements and we were unsuccessful. On this one, though, it is really outside the realm of public policy, because it affects the nature and quality of the Legislature itself. That is our body. It does not belong to any political party or any government and it certainly does not

belong to the civil service or bureaucrats in the Ministry of the Attorney General. That is our body. We are fixing rules that affect our very lives.

My own impression is that notwithstanding that, we are very rigid and set in our ways about it. I confess I am set in my ways about divestment. I personally, as an MPP, could never serve in Bob Rae's cabinet. When I made that comment to him across the floor in the Legislature when he introduced this stuff, his answer was, "Precisely." I just took significant offence at that. My view is that notwithstanding that I happen to be affluent, notwithstanding that I have substantial business interests in my name that bring me resources that perhaps not everyone can afford in Ontario, I think I could still qualify, imperfect as I am, to sit in the Legislature.

I know one thing. You cannot sell, because there is no market. My friend the member for London South knows about that. He knows what minority interests in small companies mean. The purchase and sale of interest in those things are subject to very rigid rules controlled by the majority, and when the majority says, "I'm sorry, you are not allowed to sell your interest," that—

Ms Gigantes: On a point of order, Mr Chair: We are again rehearsing a debate which occurred and was decided yesterday and earlier today. If Mr Sorbara is going to contribute to our process in the committee in dealing with this matter, he will be very attentive to that.

The Chair: I will not disagree with you about the repetition of Mr Sorbara's comments. However, he has every right to repeat them if in reference to another point on our agenda.

Mr Sorbara: My friend the member for Ottawa Centre, notwithstanding that she has been a member of this Legislature for a number of years, should realize that it is inappropriate to interrupt a member on a point of order when there is no point of order. Under the circumstances, as I said last time, I just do not want that to happen any more and I am going to move that the committee rise and report. I am going to ask for a 20-minute bell and that is not debatable. So let's recess for 20 minutes.

The Chair: Mr Sorbara, the clerk informs me that there is no rise and report in committee.

Mr Sorbara: I will move then, sir, that the committee adjourn for the day. Is that okay? I ask for a 20-minute bell.

The committee recessed at 1712.

1729

The Chair: With the consent of all present, we are resuming with Mr Sorbara's adjournment motion. All in favour of Mr Sorbara's motion? Opposed?

Motion negatived.

Mr Sorbara: Lost another one.

If I can just repeat my remarks, maybe uninterrupted, but you never know, we were talking about parliamentary assistants. Now correct me if I am wrong, Mr Chairman, but the motion, or the approach of the government members is to include parliamentary assistants under the guidelines that will become law. I would recommend to the government, as they draft their report, that they might want to

amend the commentary under the section on parliamentary assistants, because if they do not do that, it is going to look rather weird. I suggest that they read it. Maybe I will help them out; I will just read it to them:

"It was suggested that parliamentary assistants should be treated differently than cabinet ministers under the conflict-of-interest rules. Parliamentary assistants do not have access to the same kind of information and do not have the same degree of influence over decision-making as do members of the executive council. In addition, although there is no security of tenure for either parliamentary assistants or ministers, it was pointed out that parliamentary assistants may in some ways be even more vulnerable to losing their position. In the past they have been subject to a rotation program to foster experience among backbenchers. The combination of these factors makes identical treatment inappropriate."

If the recommendation following that is, "Therefore this committee recommends identical treatment," this committee, or at least its government members, will look rather foolish, which is perhaps the case; maybe not. But maybe they should ask the researcher, Ms Swift, either to strike that paragraph or rewrite it, or suggest there is some evidence before the committee somewhere, a little bit of evidence that parliamentary assistants ought to be included in here. That is one of the problems you get into by making motions that they be included without reading the information that is there.

My friend, the lawyer from London South, will know that in writing a legal judgement, the judge generally wants to make reference to the evidence that supports the conclusions of law that he gets into. What you have here is a commentary, that would support a recommendation that parliamentary assistants not be included in the guidelines, at least the guidelines respecting divestment.

Is there any indication yet from the government members that they would want either to amend this paragraph or change their minds about the recommendation? If I see an indication, Mr Chairman, I would certainly cede the floor, at least for a suggestion in that regard.

Seeing none, I will just complete my remarks by saying that this is probably the final example of a situation where there is not really much interest in hearing what we have to say. Although I did not recommend the adoption of a specific procedure to complete this business, for my part and my party's part, we will cede the territory. We will have a look at the document the government members come up with.

Once again, I really recommend that you deal with that parliamentary assistant section. It would be embarrassing for a reader to read that and then see, "Therefore, Ms Gigantes moves, seconded by Mr Mills, that parliamentary assistants be included." That would be embarrassing to the government. We, of course, would have a dissenting report that would support the conclusions suggested by the commentary.

In any event, we wish you well in your consideration of this matter. We are disappointed that you would not want to take a radical, a sort of independent "I was elected by the people in my riding to think independently" kind of approach on this subject. That will come. It has come to

Preston Manning, and it will probably come to the New Democratic Party government in Ontario one of these days. It has not come to this committee yet, and that is unfortunate because we have had some matters of substance here.

The worry is that where we could have actually worked together—for example, on support and custody order enforcement—to make a few minor changes, that was not possible. It is not possible on this project, unfortunately. It might be possible on the Mortgages Act, but I doubt it. The Mortgages Act is coming up. It probably will not be possible on the advocacy bills that are coming forward and—my heavens—when we get into that real meaty stuff, that Sunday shopping stuff, finally we are going to get a common pause day. Hallelujah, brother. Praise the Lord. Close those stores. It is not going to be possible on that at all. If you think we have had difficult times here this far, wait until we get into Sunday shopping and you hear the storekeepers in Windsor and Sault Ste Marie and Kingston saying, “Please mind your business.”

Mr Mills: Save that for another day.

Mr Sorbara: I will. I am talking about where the committee is going now, from this point. Where you are going on this matter is that you will write the report; we will have a look at it and we will consider some dissenting views. I am sure my colleagues in the third party will consider some dissenting views and we may even work together on that. We may set aside our partisan differences and the war of politics and actually say, “What do you think about this?” And they will say to us, “We think it should read like this but we’re interested in your opinion.”

Too bad it never happened here. We could have sent Bob Rae a document that could have added to his insight on these matters. Bob Rae has not moved one iota since 1986 when he wrote to the acting commissioner, John Black Aird, arguing for divestment in an eloquent letter he submitted to this committee, and those who were here at that time remember it. Five years later, having become the Premier of Ontario, he has not moved one iota. We could have helped him in that.

Whether these guidelines become law or not, they will embarrass Bob Rae further and further because he has put himself into the ultimate position of conflict, having to make a judicial decision—remember hardship, Gord, you mentioned it—on the basis of how badly he wants Gord Mills or Mark Morrow or Evelyn Gigantes in cabinet. If he really wants that person badly—and that is the heart and soul of conflict, how badly you want it—he made a terrible mistake putting himself in the position of judge and jury, selecting members for his own cabinet and making decisions on their behalf.

It is too bad, because we could have said that in this report. We could have said: “Premier, we understand that you want very high standards. That’s good. The people want high standards as well. But think about removing yourself from the position of making the determination about hardship and whether or not it’s a conflict. Think about vesting that in the commissioner and think again about this business of divestment, because you’re sending

a signal to a significant part of Ontario that they’re not welcome even to consider public service in the role of a cabinet minister and, according to you folks, in the role of a parliamentary assistant.

We could have sent him a really good note from this committee, a good, substantial, political reflection on what he asked us to do. And do you know what? Believe it or not, I think Bob Rae would have appreciated it. When he testified before this committee, he gave us the reasons why he favoured divestment, but he really did indicate he was interested in the views—independent views, I think—of those of us who are elected to serve in this Parliament representing our constituents. I really believe he did that.

If we had taken a different course and really decided we were going to have a good, substantial discussion about this, we could have improved the laws of Ontario, not hugely, but at least in certain respects.

You will say, “Oh yes, but we want to do that; it’s just that we differ on these things.” Do you know how I know that is not the case? No government member of this committee has contacted me to discuss this stuff informally over a cup of coffee, not the whip, not the member for Ottawa Centre, who is now apparently carrying the marching orders, not the member for London South, not my good friend Mr Mills. No one has phoned and said, “Why don’t we have a chat in a less formal context?”

Mr Winninger: You have been away, Greg. What do you expect?

Mr Sorbara: My friend mentions that I have been away. Everyone who wanted to contact me while I was away was able to contact me, and some of the things I was contacted about while I was away were rather important, but not as important as this.

1740

The Chair: Mr Sorbara, his comment was out of order and you really should not respond to it.

Mr Sorbara: No, but I enjoyed it none the less.

Those are the little signals. You will find as you get more experienced in this place that those little signals are important. Someone phones and says: “I’d like to get this project moving. Can we have a talk? Can we meet down in the cafeteria? Do you want to take a walk in the park and we’ll discuss what we might be able to do, how we might be able to compromise on this project?”

It never happened to me on SCOE. I am the whip, by the way. No one called. I did not get the call; I did not hear the call; I never wrote the call, all that stuff. No one called to say, “I would like to discuss with you, Greg, what your party feels we could do on these conflict-of-interest guidelines.”

Mr Winninger: The days of deals are over.

Mr Sorbara: I believe that one day government members of this committee will actually be so daring as to pick up the phone and say, “I’d like to speak with you about—

Mr Morrow: Did you call us, Greg?

Ms Mathysen: He has called us lots of things.

Mr Sorbara: I hear voices, Mr Chairman. I do not know where they are coming from, but I do hear voices.

The Chair: Please continue, Mr Sorbara.

Mr Sorbara: The reason I do not call is because we are the minority. We do not have anything to do other than to wait to see what the government's position will be and then to try and encourage compromises. I would still be interested in some compromises or some fresh discussion on this, particularly on this one, because I really believed Bob Rae when he came here and suggested that he would like to hear some independent views on this stuff.

In 1986 he wrote a letter. He crystallized his position; his interest crystallized. My friend the lawyer will understand what I mean when I refer to the crystallization of an interest. Since that time he has not really done much thinking about it, and when he came unexpectedly to the office of the Premier, he was pretty much bound by that 1986 letter.

Have you gone through the documents lately? Bob Rae submitted a whole list of questions to us, generally in the area of conflict of interest. Do you know what? Not one of those questions has been discussed.

My own view is that there is not much left to discuss. We will be submitting some comments in dissent. If and when a bill comes back requiring that ministers divest themselves of their business interests within 60 days of being appointed to cabinet, we will oppose that measure. That will probably come back to the justice committee and we will have further discussions on that. I can tell you one thing. I am absolutely convinced in my view, in a non-partisan way, that our objection to that proposal is in the interest of good public policy.

I point out the fact that Franklin Delano Roosevelt, who the Premier wanted to kind of echo in his first few days in office—he talked about reconstruction. He really was looking back to Roosevelt's plan for reconstruction out of the Depression. Bob Rae knows all this history and he wanted to use some of the same metaphors. Franklin Delano Roosevelt would not have qualified to sit in Bob Rae's cabinet, but Richard Nixon would have. Pierre Elliott Trudeau would not have been able to sit in Bob Rae's cabinet, but Joe Clark would have.

All I am saying is, reflect on it. As you craft the report, saying that if you want to qualify for Bob Rae's cabinet, you sell what you have and you are then beholden only to him, reflect on whether you really believe that is good public policy. We do not, and our dissent will express as much.

Mr Mills: I would just like to make one or two comments about this. I noticed that when this discussion commenced, Mr Sorbara went on about the rotating of the PAs to foster experience among the backbenchers and how this was part of the policy of the Liberal party. I can appreciate that. You had so many people you did not know what to do with them to keep them all happy. I do not know what is in Bob Rae's mind, whether I will be the PA to the Solicitor General next month or next week or two years hence—

Mr Carr: You will be Solicitor General, Gord.

Mr Harnick: You are going to be it.

Mr Mills: I am just saying I do not know that, but nevertheless I think that—

Mr Sorbara: He rotated PAs even when we only had 48 members in the 1985-87 period.

Mr Mills: I am just saying that in my limited knowledge of the last government, I thought the rotation of the PAs was really designed to keep everyone happy and not necessarily to give them experience. I noticed through the discussion, and I take exception to it, that there is a sort of vein running through here that people who come to this Legislature are superior if they have money or if they are business people or are of some affluence.

Mr Sorbara: My point is that they are not inferior.

Mr Mills: This vein runs through all the discussion. Mr Sorbara made a comment which I wrote down. He said that he had said to the Premier, "I could never sit in your cabinet," and Mr Rae had replied, "Precisely." Mr Sorbara said, "I took significant offence to that."

Mr Sorbara: Yes.

Mr Mills: Okay, I take significant offence to something you said. You said, sir, that these guidelines "are going to affect the substance, the nature and the quality of this House." I have not got a penny to my name, but I still like to think that I am making a contribution here, and I think that for you to say that the people who have not got money or have not got wealth or affluence—

Mr Sorbara: I say I can make a contribution too, but I for one do not qualify.

The Chair: Mr Sorbara, Mr Mills has the floor.

Mr Mills: That is the substance, that the nature and quality of this House is absolutely awful; it upsets me when people say that. So I look at myself and say, "Crumbs," you know. But I will get on with it. I think that in supporting this this document as it relates to parliamentary assistants, ultimately that decision, no matter who you are, depends upon you. If I have ten apartment blocks and I am in here and the Premier comes to me and says: "Gord, I want you to be the PA to so-and-so. What do you think about it?" I make that decision. I then have to say to myself, "What is my contribution to society through sitting in this House? Do I feel I want to make that contribution more than I want to own my houses?" All these things run through your mind. I think it is up to the individual to make that decision and it is not for us for say, "You will not qualify," or, "You do qualify for this position."

I would like to say in conclusion that I have great confidence in the Premier's statement of hardship. If I came into this House and was offered a position and could demonstrate very well to the Premier that I would like to be here and would like to do that, but that I own this and it will be a great hardship for me to divest this to be in his cabinet or to be a parliamentary assistant, I like to think the Premier would undertake a thorough investigation of that and accordingly make a decision in a humanitarian way.

Mr Sorbara: Like he did with Peter Kormos, for example.

Mr Mills: I do not have the connotation that it is sort of—

Interjections.

The Chair: Mr Mills does have the floor, please.

Mr Mills: I have absolutely no qualms about this. I think the underlying issue with all of us is credibility with

the public, and right now it is zero. I must say to my friends across there that the tactics in the House added to that lack of credibility. It was just awful.

Mr Harnick: The Premier could have sent it out for hearings without going through all of that.

Mr Mills: I think guidelines such as these go a long way in getting back the confidence of the public that there are some criteria to being in this House. I fully support them and I thank you.

Mr Harnick: Just a few remarks: I agree in part with the concepts that Mr Mills discusses. I believe public perception is important and I think we here have lost sight of what that public perception really is directed to. That public perception is directed to making promises at election time and then fulfilling your promises if you are elected.

That to me is much more significant than the perception that one needs to divest to demonstrate to the public that we have honest people in this Legislature. We heard from numerous witnesses who came before us, and they were witnesses of different political stripes. I am referring to present cabinet ministers and to former cabinet ministers. Not one of them demonstrated, when asked, that there was any incident he could think of where the disclosure rules had not been effective. None of them indicated that anyone to their knowledge ever came to this Legislature and benefited and did things for personal gain. Certainly when one looks at perception, that to me is very significant.

At any rate, it is my understanding now that we will be completing our deliberations, such as they were, on this bill. We will be seeing the report that is prepared and we will thereafter, either in combination or individually, be preparing minority opinions on either all of what is in the final report or on various sections. That is now my understanding, that those minority reports will be prepared after we have had a chance to see the report that will be prepared by the committee itself.

I agree that we did not see eye to eye on the issue of whether there should be divestiture or whether there should not be, and it is regrettable to me. As a committee we made a decision and we decided and the majority ruled

that there should be divestiture. Unfortunately, we left the section hanging. There was more good work we could have done once that decision was made. We could have looked at section 15 and we could have made certain recommendations so that the issue of hardship would have been clearer. We could have made recommendations about what the Premier's function would be and what the conflict commissioner's function could be.

We did not even have the opportunity in this committee, that I am aware of, to review the subsequent guidelines or the elaboration of the guidelines that the Premier issued to his cabinet and parliamentary assistants in February. We did not even have the opportunity to see how that impacted on this legislation, and I find that regrettable. I do not find it regrettable that we had philosophical differences. What I do find regrettable is that we were not able to go through the significant sections of these guidelines and make them better. There was never an attempt by this committee to direct ourselves to do that.

I find that regrettable because I too was under the impression that Premier Rae was genuinely interested in a detailed study of the contents of these guidelines. I felt, certainly from his appearance here, that he was prepared to consider many different points of view. Unfortunately, the report that will be prepared—and obviously signed by the majority of government members—is merely a recitation of headings, a fast summary and a motion that was put after each section, “Yes, we agree,” or “No, we do not agree.” I do not think that is what the Premier really intended us to do, and I think it is regrettable that is where this has been left.

Mr Sorbara: Mr Chair, I move that we adjourn now so that we can proceed to vote.

The Chair: The only thing I am wondering about is whether we are adjourning on this, or have you resolved to subsequently present dissenting reports?

Mr Sorbara: The bells are ringing.

The Chair: Five minutes. We are adjourned.

The committee adjourned at 1755.

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Standing committee on administration of justice

Conflict-of-interest guidelines

Comité permanent de l'administration de la justice

Lignes directrices
sur les conflits d'intérêts

Chair: Drummond White
Clerk: Lisa Freedman

Président : Drummond White
Greffier : Lisa Freedman

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Monday 17 June 1991

The committee met at 1543 in committee room 1.

CONFLICT-OF-INTEREST GUIDELINES

Resuming consideration of the Premier's conflict-of-interest guidelines.

The Vice-Chair: We are on the part where we left off on parliamentary assistants. I believe the governing party has the floor.

Mrs Mathyssen: I would like to make a motion to the committee. My motion is that we vote quickly on the remaining items of the draft report and ask the researcher to have a new draft report ready by Wednesday 19 June to distribute to members of the committee on Thursday 20 June and that the finalized report be brought back to the committee on Monday 24 June. Any dissenting report should be tabled at that time.

The Vice-Chair: Can you give that to the clerk in writing, if you would not mind?

Mrs Mathyssen: I certainly will. She may not thank me for it, but I certainly will.

Mr Harnick: That is totally contrary to what we were discussing last week and totally contrary to the schedule I had understood we had discussed in terms of the preparation of the final report, which would then be provided to the opposition parties to review and consider if they wished to prepare a dissenting report. Certainly by doing everything at the 11th hour, you make it more and more difficult for the opposition parties, if they so desire at the end of the day, to prepare a well-balanced and well thought out dissenting report.

I might add that this is very typical of the way this whole matter has been handled by this committee. Let's do everything in a rush and let's not consider what the Premier said when he came here on 14 February, that he was genuinely interested in the concerted effort this committee was going to make to thoroughly review the conflict-of-interest guidelines and the Members' Conflict of Interest Act in a section-by-section way, rather than just taking a section or a block out of his already prepared preliminary work and saying, "Are you for or are you against it?"

I submit that is not what the Premier had in mind when he came here and when he left these guidelines in front of the committee. The Premier did not have in mind at that time that we would go through a report with headings on it and merely reiterate that which is found in the guidelines themselves. The Premier certainly indicated that he was anxious to see what our review of this material would bring, that he was anxious that we look at the guidelines and go through them on a section-by-section basis to see if we could make these conflict-of-interest guidelines better than they are.

Certainly the history of these guidelines has been fraught with difficulty. I do not think there is anybody in this room who would disagree with that. That would make it even more necessary to take our time and develop a proper report reviewing this material section by section. It would seem to me that if there is some question about whether that is really the mandate of this committee, we should ask the Premier to come back here and show him the pitiful job that has been done in terms of regurgitating his headings in the guidelines, just saying for or against it and not offering any constructive criticism of that material. The Premier will acknowledge readily, I am quite sure, that these guidelines are a new initiative, that he wants them to work, that he wants them considered and that he wants the experience of their usage in the last nine months to be considered.

I think this motion merely confirms the crass way in which the government members have dealt with this material. They have dealt with it on a totally political basis. They have made absolutely no effort to review the material in any thorough way. They have put ridiculous time constraints on the researcher, and quite frankly the work that has been turned out is nothing more than a regurgitation of the existing guidelines without a single, solitary concrete recommendation for any change. If that is what the Premier wanted, why did he bother giving the guidelines to this committee at all?

I think the motion should be reconsidered. I think it should be withdrawn and I think we should proceed with our work and do this properly, or at least have the courtesy to let the opposition parties deal with it in a way that does not give them three days to prepare a dissenting report. All that you have done is to create a system of trickery here to try to speed up the process and prevent the opposition parties from preparing a well-reasoned, dissenting report, or reports, as the case may be. To do that at the 11th hour and tell us that you are going to bring your final report back on the 24th and allow us maybe two days to get a dissenting report done is not proper. It is just crassly political and it shows that you could not care less about the quality of these guidelines when the report goes back to the Legislature.

The Chair: Excuse me. The clerk has a point of clarification.

1550

Mrs Mathyssen: In response to Mr Harnick, might I point out that we are acting on recommendations made last week by the opposition? In fact, I am looking at Hansard from 11 June and at that time Mr Harnick very clearly said, "It is my understanding now that we will be completing our deliberations." I am proposing that we complete those deliberations. As Mr Harnick so obviously pointed

out, we have been at this since February. It is time to get on with it.

Mr Chair, if you were to check Hansard over the last four months, you would find that Mr Sorbara and Mr Harnick have gone on at length about these deliberations and about these guidelines. We have sat here and listened with great patience, Job-like patience. The opposition had ample time since February to consider its position. If they were at all serious about reporting serious guidelines back to the House, I suggest they would end this seemingly endless rhetoric of theirs.

My motion stands. I propose that we finalize our report by next week. If they have a dissenting report, fine. They have had months and months and hours and hours of our time to get those objections into Hansard. Let's get on with it.

The Chair: The clerk has a question back to the earlier discussion I was having with her, simply a clarification of the word "quickly."

Mrs Mathysen: "Expediently."

The Chair: It says that we vote "quickly."

Clerk of the Committee: The only thing I wanted to clarify is that a motion is out of order if it is unclear, and I was not essentially clear on what the words "vote quickly" actually mean, how one would vote quickly.

Mrs Mathysen: Okay, "today."

Clerk of the Committee: To vote "today." Thank you.

Mr Chiarelli: I first of all want to endorse Mr Harnick's comments 100%. I agree with all the comments he made and the submissions he made. I want to add several comments to those.

Quite frankly, I frequently feel under siege as an elected official, as a "politician." We all know that people in the public today place politicians on the lower end of the credibility scale. In fact, they place them on about the same level as lawyers, and I happen to be a lawyer as well. I think we should look at the whole concept of politics as self-governing, like a lot of professions. In fact, the Premier's guidelines are really rules of self-government for the Premier and his cabinet. To that extent, the credibility of those guidelines, the self-governing rules in effect, will define to the public what our credibility really is.

Look at what has happened with politics in Canada over the last number of years. Look over the last week or two at the federal scene with the Al-Mashat situation and what is happening with respect to the credibility of ministers, the credibility of the government, the whole issue of ministerial responsibility. Look at the record of this government since the cabinet was sworn in. Look at the experiences and the circumstances around the Red Hill Creek Expressway issue and ministers Philip and Allen. Look at the factual circumstances around Mr Kormos's having to leave the cabinet. Look at the technical breach by Ms Akande of the guidelines. Look at the requirement, self-imposed by Ms Gigantes, to leave cabinet, probably temporarily as everyone assumes and probably rightly so. Look at the very difficult situation that Mr Farnan finds himself in and of course the events of late last week with

ministers Swarbrick and Martel. What those incidents say to us and should say to us as a self-governing profession is that the guidelines are not working. The guidelines are not working because I believe some of the ministers are unclear, and I believe the Premier is unclear, on some of them. Quite frankly, if you read the public's points of view—if you can say they are expressed through the media, through editorials—I think there is a sense that something is amiss in terms of the rules that we in effect self-govern ourselves by.

I am not trying to impute motive. I am not saying that Bob Rae has bad motives in making the decisions he does. I am not saying Mike Farnan has bad motives for not offering to resign and that there are bad motives in any way on the part of Swarbrick or Martel in offering to resign. I am not saying there was bad political judgement on the part of Ms Gigantes for deciding to resign and having it accepted. All I am saying is that it is manifestly clear to the public that the concept of guidelines, as we have them now, is not working. They are not working for the people who are on the firing line—that is, the ministers—and certainly they add confusion and problems even for the opposition, because we have to make an assessment.

As an opposition, we have to sit down and ask: "What is our responsibility to the public to give credibility to us as a profession? Is it really a question of substance to question the guidelines and the propriety of the ministers or should we get on with other issues, such as the budget and support and custody orders enforcement, etc." Believe me, we talk about that. We talk about our responsibility to the public on these issues. We have to make a determination whether or not bringing to the public's attention and keeping in the public's attention the questions of possible resignations and the propriety of these ministers is a proper matter to consistently bring before the Legislature.

The point I am making is that we have now had some very direct evidence, in the course of the last eight or nine months, that there is confusion internally about these guidelines. There is confusion in the public; there is confusion in the opposition. If there is a fault we, the people on the government side and the people in the opposition, are collectively at fault for decreasing and diminishing the credibility of our profession. If we can together make rules that make sense, we are going to enhance that credibility with the public. I think we have got a long way to go and I am talking collectively, as a Legislature.

I am going to make a motion after this vote which I hope will help cast some light on the comments I am making, but the fact of the matter is I agree with Mr Harnick. I think we should spend some time exploring objectively, in a non-partisan way, the real difficulties with implementation. It is all right to have motherhood guidelines, but if motherhood guidelines create real problem—and I am talking about heartaches for the ministers, because surely there have been many, and heartaches for the public, the families of people involved and the opposition members. We saw Mr Nixon's response. It was a very emotional response that was made in the House. It was a very human response.

Ms Gigantes: Very civil.

Mr Chiarelli: And a very civil response, as the member said. The fact of the matter is that the reason there is such a divergence and diversity of responses is that the guidelines are unclear, and when it comes to implementing and enforcing the guidelines there are serious problems.

Winding up, I believe the circumstances of the last number of months should say quite objectively and in a non-partisan way to this committee, let us take a little more time to look at the enforcement and look at the realities of some of these circumstances. I believe if we do not rush into it, we can improve it and make more sense. To that end, after this particular motion is dealt with, I will be placing another motion.

1600

Ms Gigantes: Mr Chair, I would like to propose that we take the vote on the motion.

The Chair: Are you putting the question, Ms Gigantes?

Ms Gigantes: I would like to have the question put, please.

Mr Harnick: May I say something further about this vote?

The Chair: It is not debatable.

Mr Harnick: I do not want to debate that; I want to discuss the motion.

Ms Gigantes: No, we will take a vote on this first.

Mr Harnick: I guess we are seeing closure again.

Mr Chiarelli: Can I have 20 minutes so we can talk to our other committee members?

The Chair: I do not believe we have had sufficient discussion of this particular motion. Mr Harnick.

Mr Harnick: I think it is passing strange that we are considering the conflict-of-interest guidelines. We have not yet even opened and looked at the letter Bob Rae wrote to John Black Aird, who was interim commissioner for conflict-of-interest matters. It was mentioned in February when the Premier gave it to us. As a committee, we have never looked at this letter, nor have we discussed it on a heading-by-heading basis.

Mrs Mathysen: We talked about it in February.

Mr Harnick: May I continue, Mr Chairman?

The Chair: Please.

Mr Harnick: We have never discussed this letter. We have never discussed the addendum to the conflict-of-interest guidelines that the Premier released, I believe, in February, although we all have copies of that. It has never been discussed at this committee. We have never discussed the act on a clause-by-clause basis. We have never discussed some of the problems that have come up, dealing with ministers Akande, Richard Allen, Elmer Buchanan, and all of this documentation that was delivered to the Legislature last week dated 5 June 1991. We have never discussed the conflict-of-interest act, nor have we discussed the Conflict of Interest Commissioner's proposed amendments to that act.

I do not know what the government members' instructions are. Obviously there is a big hurry here. The Premier

came into the Legislature last week and again this week and said he was looking forward to our considered deliberations. With all due respect, we have not had any considered deliberations. We have not even gone beyond looking at what the witnesses said. We have a compilation of what the witnesses said. That is all that Susan Swift, our legislative research officer, has been provided with. She has put that into the form of a written report and that is all we have looked at. That is absolutely all we have looked at. We have not looked at the conflict-of-interest act. We have not done clause-by-clause on the guidelines. We have not looked at Bob Rae's letter when he was the opposition leader writing to the conflict commissioner of the day. We have not looked at his addendum to the conflict-of-interest guidelines.

If you want to do this fast, I will put it on the record that this is not what the Premier intends. The Premier intends a good report back to him. If you do not want to do a good majority report, at least permit the opposition parties the time to see what your report says and to prepare, in a considered and reasoned way, their minority report or reports. At least grant us that courtesy. You may want to do it quickly and you may want to do it in a cursory manner. That is up to you. You have the majority on this committee and you can win every single vote of every single motion that you bring.

Go ahead and win your votes, but at least extend to the opposition parties the consideration of the time necessary to prepare a proper report, because there is not going to be a whole lot gained by tabling your report in the Legislature in the last week of this session or the first week of the next session. Not a whole lot is going to change in between, so I put it to you, go ahead and pass your motion if that is what you want to do. All your motion is is another form of closure, but if that is what you want to do, go ahead and pass your motion. But at least extend to us the courtesy, the opportunity, without having a time deadline of a day or two or three, to prepare a report.

We do not have a research assistant to do it for us as the committee does. We have to do these things ourselves. If we are going to do a minority report, the least you could do is give us more than three days to do it. All right? If you want to do it the fast and easy way, that is fine and you will win the motion because you have more votes than we have, but at least extend to us a realistic time frame so that we can prepare our report and can consider all the things that this committee has not considered. Maybe we can give the Premier back something in addition to a regurgitation of the guidelines as written, because that is all you have done here.

Ms Gigantes: On a point of order, Mr Chair: Is that enough?

Mr Harnick: Go ahead and have your vote.

The Chair: There would have to be a motion to find out. Mr Fletcher is next.

Mr Fletcher: I am willing to defer to—

Ms Gigantes: Go ahead and move it again.

Mr Fletcher: I move the question.

Mr Chiarelli: Can I raise a point of order?

The Chair: I had ruled the previous question out of order as there had not been sufficient debate.

Mr Chiarelli: Can I make a point of order?

The Chair: No, I am sorry. Not on that question, no. That is my ruling, as you know.

Mr Chiarelli: I wanted to speak on the motion. I wanted to know why the Conservative member can speak twice to this matter and I cannot, for much less time.

Ms Gigantes: On the point of order, Mr Chair, you were going to rule on putting the question. It is not debatable.

The Chair: So I understood.

Mr Chiarelli: On a point of order, Mr Chairman: Did you not say that you were going to permit additional time to debate the issue?

Ms Gigantes: He did.

The Chair: I did.

Mr Chiarelli: Are you going to permit me some additional time or just the member from the Conservative Party? Is that fair and evenhanded as a Chairman?

The Chair: I think that is a reasonable request, Mr Chiarelli.

Mr Chiarelli: I do not go on at length. I try to make my points briefly.

The Chair: The issue was sufficient time. Mr Harnick, as you have already mentioned, has already spoken twice. I think that is reasonable.

Mr Fletcher: On a point of order, Mr Chair: Are you allowing the opposition to speak again on this for the same amount of time Mr Harnick spoke?

The Chair: What I am suggesting is I am allowing Mr Chiarelli to speak. If the request is brought up again, I suggest that at that point it would probably be ruled in order.

Mr Fletcher: Then do I have the floor after the opposition? Is my name still on the list?

The Chair: It is, sir.

Mr Fletcher: Then I will move it after them.

Mr Chiarelli: I just wanted to make a comment that we are talking about something that is obviously very technical. It is something that requires Solomon to interpret, both from the end of the persons who are doing the acts and from the end of the person who will be doing the judging. I am talking particularly about the ministers and the Premier.

If the government side is determined to move quickly and rush these matters through, I hope it is going to be cautious and careful and judicious in what it does, because it is paying a monumental political price for the guidelines that are in place at the present time, a monumental price in terms of human turmoil that has been created on the part of individual ministers, on the part of the Premier and on the part of the opposition. In fact, if they are hell-bent on speeding this thing through, then there will be no sympathy after the fact when this becomes law or is legislated, if and when errors continue.

I am simply cautioning that there should be deliberation and patience. As a matter of fact, the House is not

going to be sitting for a number of months. There is time to consider things in due course and to do the job properly and right. I am simply suggesting, from the point of view of giving some advice to those who are going to be on the firing line, that they might want to think twice about rushing into it.

Mr Fletcher: Just a couple of comments: We have had four months of deliberations on this and countless witnesses. For Mr Harnick to speak for the Premier I find to be ludicrous. To say that he knows what the Premier wants is crazy. He does not know what the Premier wants. Only the Premier knows what he wants.

On that note, Mr Chair, I am calling the question.

The Chair: All in favour of putting the question?

Mr Chiarelli: Can I have 20 minutes for the vote, please?

The Chair: A 20-minute bell.

The committee recessed at 1610.

1630

The Chair: We are resuming. All in favour of putting the question? Opposed?

Motion agreed to.

The Chair: We now have the motion in front of us. Mrs Mathysen, would you like to re-read your motion or would you prefer I do it?

Mrs Mathysen: Would you please, Mr Chair?

The Chair: Mrs Mathysen moves that we vote today on the remaining items of the draft report and ask the researcher to have the new draft report ready by Wednesday 19 June for distribution to members of the justice committee on Justice on Thursday 20 June and that any dissenting report should be tabled at that time and that the finalized report be brought back to the committee on Monday 24 June for final approval.

Mr Chiarelli: I ask for 20 minutes, Mr Chair.

Mr Morrow: Did you just ask for 20 minutes?

Mr Chiarelli: Yes.

The Chair: The question has been put. All in favour of the question?

Mr Chiarelli: Just a minute. I have asked for 20 minutes.

Mr Morrow: Excuse me. I do not understand something. If both caucuses have their full complement here, why do we need 20 minutes?

Mr Chiarelli: Because I want to go and review the motion that I am going to move immediately after the vote. I want some time to consider that. Besides, you are not entitled to an answer.

Ms S. Murdock: On a point of order, or a point of information, Mr Chair: I do not know whether it is a point of order or information, but I am sure I will be told. Have the substitutions been properly adhered to in this committee?

The Chair: Yes.

Mr Elston: Thank you for your concern.

Ms S. Murdock: I am definitely concerned.

The Chair: We have the question in front of us.

Mr Chiarelli: I am requesting 20 minutes.

The committee recessed at 1632.

1652

The Vice-Chair: I call the committee back to order. Can I ask the clerk to please read the motion.

Clerk of the Committee: Mrs Mathysen moves that—

Mr Harnick: Dispense.

Mrs Mathysen: I want it read, Mr Chair, because the first time it was read, it was not read correctly. I want it read correctly because after it was read the second time, the intent of what I had written was seriously changed. It would possibly, by virtue of the fact that the time frame had been seriously changed, cause the opposition some concern and at this point in time it is not my intention to ever upset or cause the opposition any concern.

The Vice-Chair: I am asking the clerk to re-read the motion as you have stated.

Mrs Mathysen: Oh, thank you. I appreciate that very, very, very much, Mr Chair. It is very important that it be delineated in a clear fashion. That is very kind of you, I must say.

Clerk of the Committee: Mrs Mathysen moves that we vote today on the remaining items of the draft report and ask the researcher to have the new draft report ready by Wednesday 19 June for distribution to members of the justice committee on Thursday 20 June and that the finalized report be brought back on Monday 24 June and that any dissenting report should be tabled at that time.

The Vice-Chair: All those in favour?

Mr Fletcher: On a point of order, Mr Chair.

The Vice-Chair: I am sorry. A point of order.

Mrs Mathysen: We are in the middle of a vote here.

The Vice-Chair: You cannot have a point of order in the middle of a vote. All those in favour?

Mr Elston: I have a point of order, Mr Chair. We now have had two motions read to us, one by the preceding Chair and one now by the clerk. It is my view that in order to ensure that we know exactly what the motion is, we now undertake to determine the matter before us. I had heard the previous motion read to indicate that the dissenting report, which it was to be assumed might be available since the hammer is coming down on us, would have to be delivered by 19 June. This one now changes that date, I believe, to Monday 24 June. It might be well that we have Mrs Mathysen, who was concerned that the matter be read more fully this time, now expound upon the background on why the previous reading was in error and why this new motion is the one that is in place.

Mrs Mathysen: It was a courtesy that I extended to you to make sure there was clarity in this motion. I am not playing any more games here. My motion is before this committee and there is a vote called on that motion.

Mr Elston: Which one?

Mrs Mathysen: Shall I read it?

The Vice-Chair: Mrs Mathysen, you have two options here.

Mr Chiarelli: Can you please explain why there are two motions here?

Mrs Mathysen: There are not two motions and you know that.

Mr Chiarelli: Can you explain why there are two of them? Why do they read differently?

Mrs Mathysen: They read differently because there was a misreading. I will read it and I will provide clarity if that is what you wish.

Mr Chiarelli: The motion is now on the table.

Mrs Mathysen: My motion is on the table. Shall I read it?

The Vice-Chair: Excuse me. Order, please. The only difference in the motions is that the first motion stated that the report would be back by Thursday and the second motion said it would be back by Monday. You can go with the first one if you so wish. I leave that up to the committee. I am now asking the clerk to clarify, if you will give the clerk your indulgence, please.

Clerk of the Committee: In terms of what closure was moved on, the motion that the Chair read—that is, that the dissenting report is due on Thursday of this week—was a misreading of the intent. Therefore, I believe the New Democratic Party gave the benefit of the doubt in terms of what it wanted and changed that to Monday to give the opposition extra days. If we are moving closure on the motion that was read, then the dissenting report of the opposition would be due in by Thursday of this week.

Ms Gigantes: Mr Chair, if I could add to that my understanding of what happened, Mrs Mathysen read her motion in the form that has just been read to us now. When it was transmitted to the clerk and it was read before the adjournment motion for the vote, it was read in mistaken form. If we want to go back and check the tape right now, we can check what Mrs Mathysen said in the original tape, but it is, I guarantee to you, exactly as it has now been presented to us.

The Vice-Chair: Ms Gigantes, I am going to rule in your favour, as Mrs Mathysen read that in the first place and all members have had this motion in front of them for 20 minutes.

All in favour of the written motion? Opposed?

Motion agreed to.

Mr Harnick: On a point of order, Mr Chair: I have a motion.

The Vice-Chair: Mr Chiarelli asked to be recognized after this. You cannot move a motion on a point of order.

Mr Chiarelli: I will defer to Mr Harnick. I have a motion to put after his motion.

Mr Harnick: I have a motion to put on the floor. I move that we request the Premier to reattend before this committee for clarification of the kind of report and the kind of review he wanted done regarding his conflict-of-interest guidelines. That is my motion.

Ms Gigantes: Mr Chair, I put it to you that the motion is out of order, this committee having just passed a motion which is of contrary intent to the motion Mr Harnick is trying to place right now.

Mr Harnick: No, it is not. What do you have to lose by asking the Premier to come back?

Ms Gigantes: The motion we just passed is that we finish today the decisions to be made on the remaining points in the draft report that we have in front of us. The intent of Mr Harnick's motion is to delay matters again. We have just passed a procedural motion which I expect you will now proceed to follow. No delaying motions, Mr Chair, are now in order.

The Vice-Chair: The question of delay implies intent on Mr Harnick's part. However, I think you do have a very valid point. I am sorry. Mr Elston, do you wish to speak on the point of order?

Mr Elston: I do wish to speak on the point that was raised. Although Ms Gigantes has raised an issue about the compatibility of the new motion with regard to the one that was just passed by the New Democratic majority, I must indicate that if she really wishes to be consistent, she might very well check the reference of this material to this committee in the form that it took, which was, by the Premier's own admission, to ensure that there was the fullest and most complete and thorough analysis of the conflict-of-interest materials.

That having been stated, and that also having been indicated not to have occurred at this point, could mean that the reference which was given this committee would not be subject to the cutoff that was just orchestrated by the New Democratic majority. That being the case, I suggest to you, Mr Chairman that if you want to be perfectly consistent, perhaps Mr Harnick's motion is even more correct than was the last one which was just placed and found to be in order by yourself and then voted on and passed by the New Democrats.

I suggest to you that this is a particularly long day and there is time to extend the invitation to the Premier. We are all sitting here until midnight. He can come over. I am sure he has a couple of minutes someplace or other and we can get all of the work done. We have from now till midnight to do all that work. Mr Harnick's motion is very compatible with the amount of time we have to do our work.

1700

The Vice-Chair: Mr Elston, we have until 6 pm.

Mr Elston: No, we can sit all day. The day is now extended until 12.

Mr Chiarelli: I have an amendment.

The Vice-Chair: We are entertaining questions on the point of order, not an amendment.

Mr Chiarelli: It has to do with the point of order in the sense that I think the comment was made by Ms Gigantes that this particular motion is contrary to the substance of the motion that was just voted on and approved. Quite frankly, I do not think that is the case. My understanding of the process is that when a motion has been

approved for extra hours, as it has for the Legislature, that applies to committees if the committees so choose.

The Vice-Chair: No, it does not.

Mr Chiarelli: We certainly can accommodate that particular request for the Premier to attend for evening hours. We need unanimous consent.

The Vice-Chair: We need unanimous consent to extend the committee's hours, so we are discussing the point of order at the moment. Do we have any further discussion on the point of order?

Mr Harnick: May I speak on the point of order? The point of order indicates that the motion I have put on the floor is incompatible with the motion we just passed. The only incompatibility concerns the time limits, and I put it to everyone here that we have the time. The Premier could be here tomorrow afternoon if we extended the invitation. We would probably need him for one or two hours. We are going to be here from 3:30 till 5:30 or 6:00 tomorrow. We could quite easily have the Premier here and get the clarification that I think we need in order to provide the kind of report the Premier has mandated us to deliver, which is not the report that this committee—the majority, I might add—is in the course of ramming down the opposition's throat. That is not, I submit, the intent of the Premier.

If you feel that is the intent of the Premier, you have nothing to hide by having him come here. We can seek clarification by telling him what we have done and clarify what it is that he wants us to examine for the purpose of providing a proper report. That certainly supersedes the ridiculous time limits that we have now imposed upon ourselves, but it is not incompatible with those time limits. We can certainly find the time to have the Premier attend and we can ask him the specific questions that remain, certainly in my mind and I know in the mind of the official opposition and in the mind of my colleague Mr Carr. The only incompatibility is the fact that you are in a great hurry to ram this through and come up with some kind of half-assed report that is not going to do anything to further good conflict-of-interest legislation in this province.

The Vice-Chair: Mr Harnick, I would like to suggest that while the motion which you put is, I think, out of order with today's proceedings, if another motion were put to invite the Premier for tomorrow—now that, given the Premier's schedule, may be difficult, but that may be in order. However, I would have to agree with Ms Gigantes that your motion is out of order as it was originally stated.

Mr Harnick: Well, I think if that is—

The Vice-Chair: Mr Chiarelli.

Mr Harnick: May I respond to that?

The Vice-Chair: No. I have ruled. Ms Gigantes?

Mr Harnick: At least tell me you are going to cut me off.

Ms Gigantes: He just did. You have just ruled, Mr Chair?

The Vice-Chair: I have.

Ms Gigantes: That is good.

Mr Harnick: Can I amend my motion, then?

The Vice-Chair: Ms Gigantes, did you have something further to add?

Ms Gigantes: Mr Chair, I am prepared to begin our process through the report with motions—

Interjection.

The Vice-Chair: I am sorry. You are quite right, Mr Chiarelli. I apologize, Ms Gigantes. I should have recognized Mr Chiarelli first.

Mr Chiarelli: I had indicated much earlier, even before the last number of votes, that I had a motion I wanted to put. I have since changed the motion and I will be introducing the motion I originally indicated later.

The motion I have at the present time is that the draft report referred to in the motion be translated and available in French for the public and members of this committee. That is my motion.

The reason I have indicated that is I have been informed by Mr Poirier that there has been tremendous media interest from the francophone media on this particular issue, conflict-of-interest guidelines. There are a number of constituents who have raised this matter and I think it is in order for this committee to consider variations of the rules concerning translation. We know that there are guidelines available to committees for translation of reports and draft reports, etc. In my opinion, our committee should consider having this available in both of our official languages.

The Vice-Chair: The report, unless a motion is placed to have it available only in one language, is automatically translated into both languages.

Mr Chiarelli: I am talking about the draft report.

The Vice-Chair: The draft report?

Mr Chiarelli: Yes. It is simply a motion I have put on the floor and in my opinion, it is in order.

The Vice-Chair: I believe you are right. Ms Gigantes?

Ms Gigantes: Again I am going to suggest that this motion at this time is out of order. In fact, we have just placed a procedural motion. It would be quite in order, once we have completed work under the motion which we have just passed, to have a new motion about the form of the draft report. But in the meantime we are governed by a decision we have just taken procedurally, which is to proceed with the outstanding items to be decided, for the draft report to be completed in second round. After that, I think it would be in order to have another motion.

The Vice-Chair: I appreciate your input, Ms Gigantes. I think, however, that the motion is in order. I would suggest that further debate be on the motion.

Mr Fletcher: Speaking to the motion, this draft report will automatically be made available to the public.

The Vice-Chair: The final report will be made in both languages. The draft report may not be.

Mr Fletcher: Is not all testimony that is brought forward before this committee open to the public?

The Vice-Chair: May I ask the clerk to respond to that issue of what is translated and what is not.

Mr Fletcher: No, open to the public. I am not saying translated. Open to the public.

Clerk of the Committee: Yes.

The Vice-Chair: Yes.

Mr Fletcher: We do not really need a motion to make this open to the public, since the public will be—

The Vice-Chair: No.

Mr Fletcher: I do not have a problem with the translation. It is just the other part where you are saying—

Interjection.

The Vice-Chair: Okay. Further discussion on the motion itself?

Mr Elston: I think that in this case, particularly when we are at the foundation of the existence of this government, the draft report ought to be available for analysis in both English and French. It seems to me that this government has staked its reputation on making a new mark for itself in these matters. From my point of view, the motion by my colleague the member for Ottawa West is both timely and of importance so that we can make sure there are no errors between the two versions. When we review the reports, they then can be made to correspond one with the other. We wish no problems to arise after the material is printed.

It seems as well that while we consider some of those other things and have the translations brought forward to us, as you had well indicated, a motion later for us to review some of the material the Premier might bring in would allow us to augment the reports as well and we ought to take time now so that we do not waste time later in making sure that the English and French reports are to the same effect. I think my colleague for Ottawa West has moved a very important motion to make sure that our work is done in the most thorough fashion and I commend him for that.

1710

Ms Gigantes: I am going to speak against the motion, because it is being used as a delaying tactic. It is in direct contravention of the motion we have just passed, in my view, and it would also constitute a total precedent for the drafting of reports around this Legislature. It would make it even more difficult to reach the point of report writing and report completion, report tabling. If the members opposite wish to have delays built in which are going to make it impossible for a government to proceed in any kind of regular way with work, then clearly that is what they are about.

Interjection.

Ms Gigantes: Mr Chair, I believe I have the floor.

We will certainly, as is the normal course of events, make sure that the conclusion of our work is available in two languages, but to go through the process of drafting and redrafting in two languages seems to me quite extraordinary, particularly as we are not going to be delaying this matter, I hope, beyond next week.

Mr Poirier: Obviously what my colleague for Ottawa West advanced was quite true. There is quite a bit of interest,

and if I am not mistaken, the draft report is available for the public's perusal. Is it?

Clerk of the Committee: I do not hand the draft report out to the public. If anybody from the public wants it, I request that they get it from a member.

Mr Poirier: Fair enough. As a francophone member, I have a hard time with people who might find some problems with that. Obviously bilingualism will require a bit longer to produce material, but I am sorry, I would like to be able to look at it in French, and if we want to write part of the material in French or the media or somebody requests it, what is the government going to answer, that it is not available in French?

The Chair: The clerk informs me that the translation of the draft report could delay the draft report's presentation by up to three weeks.

Mr Harnick: Is there a problem with living with 23 September as opposed to now?

Ms Gigantes: If I might, we are not writing legislation here. We are not dealing with legislation. We are dealing with a report about how the proposed additions to conflict-of-interest legislation in this province are to be approached. We have been mandated to provide guidance to the Premier, and for us to engage now in a delay for purposes of translation—it is quite clear to all members on all sides of this committee and everybody in this room that the motion is put forward as a delaying tactic, as many other motions have been.

Mr Elston: Speak for yourself. Don't speak for us.

Ms Gigantes: I am speaking for myself. I will hazard a guess that people on all sides of this room see this as a delaying motion.

Mr Elston: It is against the rules. Ask her to withdraw, Mr Chair. You know it is against the rules. It is quite clear. You should call her to order and ask her to withdraw the remarks.

The Chair: If you have a point of privilege to raise, you can do so sir.

Mr Elston: On a point of order, Mr Chair: You know what the rules are. You know that it is against the rules of procedure of the House and therefore the committee for another member to impute motive to another member. I have asked informally, but now, because you have requested it, I ask you formally to ask the member for Ottawa Centre to withdraw and apologize for the remark made about what our motives are. She is not allowed to do that by the procedures and she should be called to order. Please call her to order.

Ms Gigantes: If we were to accept that kind of notion, we have been accused of everything from jackboots to you name it as we have proceeded.

The Chair: Ms Gigantes, you are aware of that particular—

Ms Gigantes: It will certainly cause us to care what members of the opposition say in the future.

The Chair: Ms Gigantes, would you resume your discussion of the motion.

Mr Elston: Does she withdraw? She is to withdraw under the rules.

Ms Gigantes: I will withdraw if I am asked to withdraw.

Mr Elston: Mr Chairman, I ask—

The Chair: Mr Elston, I hear your point. Ms Gigantes made some comments which could have been interpreted as you suggest. I believe I heard her having responded positively.

Ms Gigantes: I was just trying to remember his riding, if he would quit interrupting me.

The Chair: I am sure she will attempt to avoid having any semblance of imputing motive.

Mr Elston: Excuse me. I want you to be clear, Mr Chair. For the record, she withdrew. Is that correct?

The Chair: Could we resume?

Ms Gigantes: Remind me what riding you are from.

Mr Elston: To be clear, did she withdraw her remark?

The Chair: I believe I heard very clearly Ms Gigantes indicating that she would be more cautious.

Mr Elston: No. I said, "Did she withdraw?" It is the orders.

Ms Gigantes: If the member for Bruce would allow me, if he feels impugned, I withdraw all those words that make him feel subject to any impugnement on my part. If he feels his motives have been questioned, I withdraw all those words. Now, to say that I find this a delay is certainly correct and to say that most people in this room and most reasonable people would find it a delaying motion is correct. I hope he will find that satisfactory.

Mr Elston: New Democrats.

Ms Gigantes: You would not have to be a New Democrat.

The Chair: We have already discussed the point of order. Actually, I believe it should have been a point of privilege. Regardless, Ms Gigantes still has the floor.

Ms Gigantes: Mr Chair, I have asked you to accept the fact that, first of all, I consider this to be in conflict with our original decision. I consider this a motion designed to undo the motion we have just passed. I will therefore be voting against it.

Mr Chiarelli: I want to comment with a bit of hindsight. Last year some time, I believe it was early in the year, there was a special meeting which had been convened of committee Chairpersons and committee clerks. At that time, I was Chair of the standing committee on administration of justice. The meeting was convened by the Speaker and the Clerk to discuss in some detail, and to get some feedback and soundings from the committees, as to what the rules or the guidelines should be with respect to providing French-language services through the committees. There was very detailed discussion on this matter.

My recollection is that the the Speaker and the Clerk's office took the comments of the Chairs and the clerks under advisement, with the clear understanding that under certain circumstances, depending on the nature of the issue and perhaps the public need, committees could determine their own agenda with respect to providing French-language services. I

believe this is a case where it is appropriate, because the matter has received such widespread media attention over the last eight or nine months—the entire life of this government—that in recent weeks, in fact in recent days, there has been tremendous attention placed on this issue by both the anglophone and the francophone media. Certainly, Franco-Ontarians across this province are very interested in this particular issue. I really believe it would be extremely helpful if the draft report could be translated and this matter could be dealt with equitably for both official languages.

1720

Mr Harnick: I find it rather incredible that a request such as this has been made and is receiving opposition, particularly in terms of Mr Poirier being on this committee. Mr Poirier is expressing, certainly in his wisdom and his experience, that this would be a necessary report to be translated into the French language. I would say to everyone in this room, who better knows of the necessity of this than Mr Poirier? I am quite frankly very surprised that we are not, as a group, prepared unanimously to vote in favour of this. Again, it is all because we are in a great big hurry here.

We keep hearing that this has been here since February. In fact, it has not been here since February. We had one week of conflict-of-interest hearings in February. The months of March and April were virtually totally devoted to Bill 17. We then had a one-month delay while the Premier refused to refer the budget to a committee.

Mr Morrow: On a point of order, Mr Chair: I would like to inform the member that while he claims the Premier was playing with the budget, that in essence did not happen.

The Chair: That is not a point of order.

Mr Morrow: Excuse me, Mr Chair. Can I get to my point of order, please?

The Chair: Okay.

Mr Harnick: He is challenging your ruling.

Mr Morrow: The point of order is that we sat here with witnesses every day while the third party played with the budget in the House.

Mr Harnick: I think the idea that has been expressed here, that the conflict-of-interest guidelines have been on the table and actively discussed since February is quite wrong. Now we did, I will admit, fall off our schedule because we had the one-month delay while the filibuster was going on.

Mr Morrow: Whose fault was that delay?

Mr Harnick: Mr Morrow is asking me whose fault it is. I would not characterize it as being anyone's fault. There was obviously a difference of opinion that was ultimately resolved when the budget was referred to the standing committee on finance and economic affairs and is now being sent out for public hearings. I would not describe that as anyone's fault and I would not describe that as anyone's victory. I think it is a good thing for the people of Ontario, who are now going to have the opportunity, as the committee travels around the province, to come and dis-

cuss the budget. Whether anyone was the winner or anyone was the loser, I do not know and I do not characterize it in that sense.

What I am saying is that these conflict guidelines have not been on the table and have not been actively discussed for the length of time that people are making out. The fact is that they have been discussed very little. We did have a tentative schedule that was thrown off during the period of the budget controversy—I will call it that as opposed to a filibuster—but at any rate the fact is that these guidelines have not been reviewed to the extent that I believe the Premier wanted them reviewed.

We have had our differences of opinion, and one would expect that. Obviously I was never in favour of having these guidelines proposed as becoming law; I preferred them to remain guidelines. A difference of philosophy obviously indicated this was not going to be so, which is fine. But I say to the members of the committee that it does not negate our duty to sit down together and review these guidelines on a clause-by-clause basis to try to make them better. Whether we agree philosophically that they should be guidelines or should find their way into legislation is now behind us, but it does not negate the idea of sitting down and reviewing the guidelines on a clause-by-clause basis, because that is very important.

At any rate, I want to get back on topic because the chairman is going to get upset with me. I only point this out to indicate that we have not wasted the amount of time people are alleging we have wasted. We are not under the gun to complete this by 27 June. We can very easily deliver our report on 23 September when we come back to the Legislature. We could very easily invite the Premier—

The Chair: Mr Harnick, you are diverting somewhat.

Mr Harnick: No, I am not diverting. I am just making the point.

The Chair: According to our earlier motion, we have a timetable in front of us, sir.

Mr Harnick: I am just making the point that the hurry that the committee seems to be in is exemplified by the fact that it does not wish to spend whatever the time is to get the document translated into French. That is something Mr Poirier has told us is important, that it is important in his community, that it is important to the media that he obviously knows better than we do, and out of respect for him I think this is a serious motion and it should be considered.

I think this committee is setting up a timetable that is indicative of only one thing, and that is to complete the review of these guidelines as quickly and as superficially as we possibly can. I will note for the record that everyone on the government side, except Mr Fletcher, just indicated that my remark was very funny. Well, I do not think my remark was funny. I think this is serious and I think the Premier has been very genuine in asking us to review these guidelines and to give him a thorough review of the guidelines, not just a recitation of what witnesses said and a motion at the end of every section saying, "I move we accept this section." That is not what the Premier wanted.

But in your haste to avoid translating this document into French and in your haste to get this away from the committee and get it done for the sake of saying you are going to get it done, you are passing motions like Mrs Mathysen's motion and you are denying motions such as the motion put on the floor now by Mr Chiarelli. I think what you are doing is a grave disservice to your own Premier, who is interested in these guidelines, who thinks these guidelines should be reviewed thoroughly and who has given every indication to this committee that these guidelines can and should be made better.

We have had now, from I guess early December when the guidelines were released, several instances where the guidelines have been controversial. Surely as a committee we should be reviewing those instances so that we can be reporting in a relevant way back to—

Mr Morrow: On a point of order, Mr Chairman: Please speak to the motion.

Mr Harnick: I am speaking to the motion, and certainly that is quite obvious to you, Mr Chairman.

The Chair: You did return to it, but I think you have diverted slightly.

Mr Harnick: It is all part and parcel of the same unrealistic timetable that is being set. I think we have had numerous instances where these guidelines have been the subject of controversy, and surely as a committee, even though we differ philosophically, we should be reviewing those instances in light of what the guidelines say. I do not recall a single word in this committee dealing with the idea of contact with the judiciary. We have not talked about that at all, yet we have had a number of instances in the Legislature—I think four come to mind—

Interjection: Mr Chair, this is not in order.

The Chair: This is a motion, which was a translation of the draft copy of the—

Mr Morrow: He is way off the topic.

Mr Harnick: Yes, and the committee, based on the majority on the government side, is obviously not interested in making that review that the Premier has requested. They have now set a timetable that will effectively negate the idea of translating this document into the French language.

The Chair: Oh, you did. Thank you.

Mr Harnick: I am sorry, Mr Chairman, I do not have the facility to think quite as quickly as you do and I have to go from point to point. I cannot really speak the words as fast as you can think them, but I know you are thinking along the same lines I am.

Ms S. Murdock: Oh, he is a mindreader.

Mr Harnick: No, I am not a mindreader.

Ms S. Murdock: You just said, "I know you are thinking what I am thinking."

1730

Mr Harnick: He has given me enough clues to tell me the wavelength he is on and I am trying to stay on it. If there is some controversy about the time it is going to take to translate the working paper into French, maybe we

could adjourn until tomorrow before we vote on this important motion brought by Mr Chiarelli and supported by Mr Poirier. Perhaps we should find out how long it is going to take to translate this document, and maybe we could adjourn for the day seeing as it is now almost 5:30.

The Chair: The clerk has already informed us it will take several weeks. It is not something that needs research.

Mr Harnick: She indicated that is what she thought, because that is the normal course of things around here, but I am sure that if we could speak with the powers that be who translate these documents, we may well be able to find out that it can be done more quickly.

The Chair: There is no internal translation, Mr Harnick.

Mr Harnick: Maybe we could get the external translation to move more quickly in this particular case, because we are not talking about an extensive or voluminous document. We are actually talking about a very pedestrian piece of work up to this time. It would seem to me it would be well worth our while to find out if we could have this translated within a faster time frame to satisfy the government members who want to see this finished without having enough time for the opposition parties even to prepare a thoughtful and reasoned minority opinion.

Those essentially, then, are my comments. I think (a) we should find out whether we can get this translated more quickly than we now believe is possible, and (b) we should support this motion, even if you are against it, even if you believe it is for no more reason than delay, because to deny this motion is to impute to Mr Poirier a motive that would be improper. It would be disrespectful to him to deny this motion.

I think we have a couple of options and I think we should proceed accordingly. But again, I think we have to respect what Mr Poirier tells us. He certainly knows more about the necessity of doing what the motion asks than anyone else in this room. He certainly knows the press that is anxious to review the document. We should respect his views regarding both the press and, as he says, the public who are interested in this very subject matter.

Mr Chair, I apologize for getting in the way here and for delaying, or what the government obviously says or would seem to be thinking has been nothing more than to delay this committee, but I think we can do a much better job than what is on the table right now. Those are my comments.

Ms S. Murdock: There is no question that any motive for our opposition to French translation is being impugned totally by the members opposite, but in fact there is no question, and I am sure everybody realizes, that the minimum length of time it would take to translate the draft report would be three weeks and that alone contravenes the motion that has already been previously passed by this committee.

I realize I am a guest on this committee today, but I know that when I sat on this committee for the week of 11 February and subsequent weeks thereafter, all members of this committee had contributed to the contents of this draft and had listened to the presenters, and it is now open for

discussion. We have spent—as I say, I am a guest today—the last two hours, of course with no intent at all imputed, without discussing one item of this, and certainly not because we on the government side are not prepared to discuss and debate and whatever. We have been ready and willing, and I think we should get on with it, even though we only have 24 minutes left

Mr Chiarelli: I just want to make some comments, particularly with respect to certain references that have been made by a number of people regarding imputation of motive.

I indicated to the members a bit earlier that there was a committee established last year on which I sat with other committee Chairs and committee clerks. If anyone cares to check the record of that time, I think you will find that I was the only member of that committee who spoke at some length, very strongly and vociferously in favour of the Legislative Assembly having 100% French-language services in its committees. I talked about simultaneous translation. I talked about having Hansard prepared in both French and English languages. I felt strongly enough about it at that time to put that on the record.

As a matter of fact, again, if you are imputing motive, there is no imputation of motive, because I felt strongly about this issue. I felt strongly at that time and I feel strongly now. At that time I suggested that we go so far, as a Legislative Assembly, as to have simultaneous translation. We have a committee room, 151, which is set up for simultaneous translation. Last year, probably around this time of year as well, I recommended that the Legislative Assembly invest the funds to do every committee room the way 151 is so that there would be simultaneous translation, that we be prepared to put our money where our mouth is.

If we look at the select committee on Ontario on confederation which travelled around this province, that issue was determined by somebody to be significant enough to have simultaneous translation services travel across this province for five or six weeks as it dealt with that issue, which somebody, in his wisdom, determined was important enough for French-language services.

Someone has to make a determination. What are the issues that are important enough for French-language services? Much to the chagrin of the government members, I think the issue of the Premier's conflict-of-interest guidelines is of sufficient interest and sufficient importance to attract the same type of attention I was talking about for all committee work last year and which the constitution committee determined this year was sufficiently important for simultaneous translation to go around the province with the constitution committee.

I am saying, in that context, that when we have an issue that has totally dominated this government and the media, affecting eight ministers, week after week after week, it is of sufficient importance to be put in the context of why I was asking for all committee proceedings to be translated simultaneously last year, to be put in the context of the importance of the constitution committee travelling around this province with simultaneous translation.

This issue is so important that it was included in the speech from the throne. The Premier stood in the House

and made special statements on it, and it has almost caused the resignation of eight ministers and has in fact caused the resignation of some.

We are now saying they are imputing motive as to why I feel this draft report should be translated. The motive is a good motive. It is a motive that is part of my philosophy that I talked about last year.

Interjections.

Mr Chiarelli: Mr Chairman, could we have some order?

The Chair: Mrs Mathysen?

Mrs Mathysen: I am sorry, but—

Ms Gigantes: On a point of order, Mr Chair: Are we going to be able to dispense with this matter, at least while the opposition—

Interjection.

Ms Gigantes: I am asking, Mr Chair, are you going to help committee members on this, because the effect of what is happening is to destroy the procedural motion we passed.

The Chair: We have a little difficulty.

Mr Chiarelli: She is attributing motive again.

Ms Gigantes: No, I am attributing effect. Mr Chair, could we get a ruling on this, because I would like to know how we are proceeding here. Are we going to get to a vote on this matter at least, which I consider out of order in any case, but are we going to have a vote on it before six? Mr Chair, I am asking you.

The Chair: I think that is a good point.

Interjection.

Ms Gigantes: He has not made a ruling on it.

Mr Harnick: On a point of order, Mr Chair.

The Chair: We have a point of order here already, Mr Harnick. Could I confer with the clerk for a moment, please. I think Ms Gigantes has a very valid point. I would like to recess for a couple of minutes, please.

The committee recessed at 1741.

1750

The Chair: We are ready to rule on the motion in front of us.

Mr Chiarelli: I had the floor when there was a point of order. I would like to just wrap up for a minute or two.

The Chair: There is a ruling and we are continuing debate with your motion. Go ahead, sir.

Mr Chiarelli: I just want to wrap up, for those people who were imputing motive or who continue to do it in a secondhand way, so that they realize I felt strongly about that issue last year when it came up and I feel strongly about it now. I still feel that the Legislative Assembly should provide full services in both official languages, including simultaneous translation, that at the very least, if we are going to abridge the normal guidelines and rules from time to time, we be evenhanded on the issues for which we determine that we are going to provide extra French-language services.

As I say, we provided extra French-language services, simultaneous translation, for the select committee on Ontario in Confederation. This issue, conflict-of-interest guidelines, is of sufficient importance as described by the government in the throne speech that the draft report should be translated.

Ms Gigantes: Mr Chair, on a point of order: We recessed in order to have clarification.

The Chair: I received consultation and the motion is still in order.

Mr Chiarelli: The member for Ottawa Centre will be happy to realize that I have now concluded my remarks and the question may be put.

The Chair: Thank you. All in favour of the motion?

Mr Poirier: A recorded vote.

Clerk of the Committee: Is he moving that the question be put?

Mr Chiarelli: No, I did not move that the question be put. I said somebody may want to move that the question be put.

The Chair: He did not move it. I am sorry. Go ahead. Anyone else want to speak on this motion?

Ms Gigantes: I will move that the question be put.

The Chair: Twenty minutes? We are recessed until after routine proceedings tomorrow, unless there is unanimous consent. That issue was brought up earlier. Is there unanimous consent?

Interjection: No.

The Chair: We are recessed until after routine proceedings tomorrow.

The committee adjourned at 1753.

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Vice-Chair: Morrow, Mark (Wentworth East NDP)
 Carr, Gary (Oakville South PC)
 Chiarelli, Robert (Ottawa West L)
 Fletcher, Derek (Guelph NDP)
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 Poirier, Jean (Prescott and Russell L)
 Sorbara, Gregory S. (York Centre L)
 Winninger, David (London South NDP)

Substitutions:

Elston, Murray J. (Bruce L) for Mr Sorbara
 Murdock, Sharon (Sudbury NDP) for Mr Winninger

Clerk: Freedman, Lisa

Staff: Swift, Susan, Research Officer, Legislative Research Service



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Standing committee on administration of justice

Conflict-of-interest guidelines

Assemblée législative de l'Ontario

Première session, 35^e législature

Journal des débats (Hansard)

Le mardi 18 juin 1991

Comité permanent de l'administration de la justice

Lignes directrices
sur les conflits d'intérêtsChair: Drummond White
Clerk: Lisa FreedmanPrésident : Drummond White
Greffier : Lisa Freedman

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Tuesday 18 June 1991

The committee met at 1547 in committee room 1.

CONFLICT-OF-INTEREST GUIDELINES

Resuming consideration of the Premier's conflict-of-interest guidelines.

The Chair: I call the committee to order. We are dealing with the motion put yesterday by Ms Gigantes. All in favour of the motion?

Mr Sorbara: Mr Chairman, if I might, just on a point of order—

The Chair: There is no discussion on a closure motion.

Mr Sorbara: I would like the motion read.

The Chair: It is a closure motion.

Mr Sorbara: There is no such thing as a closure motion; there are motions. They should be read.

The Chair: "Ms Gigantes: 'I will move that the question be put.'"

There was a request for a 20-minute bell on that motion.

Mr Harnick: What is the motion?

Mr Sorbara: What question is to be put?

The Chair: The question to be put is Mr Chiarelli's motion, which when we get to it, should be re-read.

Motion agreed to.

All in favour of the motion? Opposed? Mr Sorbara, are you voting?

Mr Sorbara: I am opposed.

The Chair: We now have the other motion in front of us. Could we have a reading of that?

Clerk of the Committee: Mr Chiarelli moves that the draft report be translated and available in French at the same time as the English report is made available.

The Chair: All in favour? Opposed?

Motion negatived.

Mr Sorbara: You are opposed to a translation of the report?

An hon member: Draft report.

Mr Sorbara: That is interesting.

Ms Gigantes: Mr Chair, I would like to place a motion.

The Chair: Ms Gigantes moves that the Chair put every question necessary to dispense with the new draft report by 18 June at 5:30 pm and that the committee ask the researcher to have the new draft report ready by Wednesday 19 June for distribution to members of the standing committee on administration of justice on Thursday 20 June and that the finalized report be brought back on Monday 24 June and that any dissenting report should be tabled at that time.

The later part of that motion is not necessary because it was already passed yesterday.

Ms Gigantes: I have included it so as to make it all-inclusive.

The Chair: So you are encompassing the motion from yesterday that was already passed.

Ms Gigantes: Yes, I am.

The Chair: Mr Sorbara, your point of order.

Mr Sorbara: No, I am just going to speak to the motion. Let me begin by saying that I came into this committee this afternoon trying to convince my colleagues on the committee that we could adopt a conciliatory approach to the work that we have to do, and I was going to reiterate my position in that regard. I am astonished that Ms Gigantes has moved this motion, which is very much like throwing down the gauntlet.

Let me just step back a few days. The last time I was in this committee, which was I guess last Tuesday, I suggested to my colleagues, and I would reiterate the suggestion today, that we not spend much more time in discussion of the guidelines because it was clear that the government was firm in its position and the opposition was firm in its position and that really what needed to be done was the government needed to sit down and go about its work of articulating its views on the report and the opposition would have to write a dissenting report.

I obviously spoke for it myself and in some respects for my party. I did not, obviously, speak to the interest of the Progressive Conservative Party on this matter. Then early today I heard about the motion that I raised in the Legislature today on a point of order and a point of privilege. My remarks today in the House—I am not going to go over them in detail here, but I meant what I said there. I thought both motions were out of order, and I will get into why I thought that motion was out of order and why I think this motion is out of order in due course.

I also felt that my privileges had been violated, because in effect what has happened is, in the absence of any provision under the standing order, there is an attempt to constrain our ability to submit a dissenting report on the matters that are before us. What I expected to happen here this afternoon at this committee was some discussion about what happened yesterday and some attempt to try and reach a reasonable compromise in completing our work in this regard.

The very first order of business here, after a vote that was carried on yesterday, was yet another motion—I would appreciate a copy of the motion from the clerk as soon as one is available—which I think both violates the standing orders of this committee and violates our privileges as members.

This is all the worse because of the charade that is going on in the Legislature right now on the very subject of conflict of interest. The mover of this motion used to be a member of the executive council of the province of Ontario. She slipped once in question period and the fall was a very

severe one. Our party believes she did the appropriate thing in submitting her resignation to the Premier and our party believes the Premier did the appropriate thing in accepting that resignation. We also fully expect, given the way in which these matters are dealt with in Ontario, that in due course the Premier will invite her back into the executive council and she will assume either the same or a new role in the executive council of the province of Ontario.

I am appalled therefore that it would be Ms Gigantes, along with her colleagues on this committee, who would, for no apparent reason, to further nothing really, once again poison the atmosphere of this committee by moving this motion.

I just want to tell you once again, sir, my view of how things tend to work when Parliament works well. I will use the example of the House leaders in the Legislature. When Parliament works well, there is a good working relationship between the government House leader, the opposition House leader and the House leader for the third party. The phone lines between those three individuals are always very busy and their staffs work together. The same situation could accrue to a committee such as this one. We could have a good working relationship if, for example, the government members saw an urgent and pressing necessity to complete this project within a particular time frame.

I believe that good parliamentary practice and etiquette and good bloody manners would have at least one of the members phone one of us, and presumably it would be me because I am the whip, just to say: "Look, we have a problem. We need to get this report in because we feel like we want to get off this report and on to some other business." No one has called me to say that it is urgent, even after I said in this committee that we were no longer interested in a lengthy debate because we feel like the positions have crystallized and it is no use talking further. The only thing that we requested, really, was enough time to submit a thorough dissent to the report that would be written.

What do we have now? What we have now is a closure motion that is, in my view, entirely out of order and breaches the standing orders. Again, I will get into why that is in just a few moments.

I want to tell you, sir, that this did not need to happen, that a phone call from the whip of the justice committee to me would have initiated a discussion about the timing of the presentation of the full report, including the dissent. I think we have made our point on conflict of interest. We have made it clear that we do not agree with the major thrust of the guidelines, and that is the requirement to divest.

We believe, by the way, that the Premier has degraded the standards in this area in a very significant way, not only as a result of his inconsistency in applying guidelines. For the life of me, I cannot understand the consistency between accepting the resignation of the member for Ottawa Centre for a slip of the tongue and not accepting the resignation of the Minister without Portfolio responsible for women's issues when she sits down and drafts a letter, which surely she knows is to a body which is about to make a quasi-judicial decision. In fact, the Premier himself, early in the day in question period last Thursday, acknowledged as much. He said at that time, "It is not a question of my

guidelines; it is a question of the standard that we have in this province," and he was right then.

Let me just quote to you from a document dated 8 November 1978. It is a memorandum to the cabinet, to executive council.

Mr Morrow: On a point of order, Mr Chair—

Mr Sorbara: I hope, sir, that this is a valid point of order.

Mr Morrow: I always believe all my points of order are valid.

Can we please ask Mr Sorbara to come back to the motion that we have before us?

Mr Sorbara: I think if you check with the clerk, this is a very broad motion and debate on a topic like this, a closure motion, is a very broad debate. Your party has set the precedent. Sometimes these debates go on for weeks.

The Chair: We had these discussions, I believe, yesterday. I think he is close enough to the point.

Mr Sorbara: In any event, I am now reading from the document dated 8 November 1978. It is a memorandum to the executive council, or the cabinet. It is from the Office of the Premier, and the heading at the top of the page reads: "Re Communication Between Members of the Executive Council and the Judiciary and Key Officials in the Judicial System."

The second part of the second paragraph reads as follows: "However good the motivation that would lead to an intervention in such a matter before the courts by a member of the cabinet, such an intervention could well be interpreted as a threat to the independence of the judiciary."

I would simply argue by extension that the very same principle applies to all quasi-judicial bodies, including things like the Ontario Municipal Board, the Workers' Compensation Appeals Tribunal and any body, like the College of Physicians and Surgeons of Ontario, when it meets as a quasi-judicial body.

The fourth paragraph which reads, "Regardless of the human merits or motivations behind an intervention, every effort must be made to protect our courts from any suggestion of interference in due process."

1600

I think guidelines of that sort were really the motivating factor on Thursday when the Premier met with the minister responsible for women's issues and had a discussion about her breach of the rules of this province. He said in question period, "I have reluctantly accepted the resignation of the minister responsible for women's issues," and then went on to say that a similar letter, written by the Minister of Northern Development, had just come to him. He had been surprised, really, by the matter, he had not had an opportunity to reflect on it and he had not had an opportunity to discuss the matter with the Minister of Northern Development. Therefore, he asked Parliament to bear with him for some time while he had an opportunity to reflect on the matter, to reflect on the content of the letter and to discuss the matter with the minister. Between that time and some four and a half hours later, something happened.

Mr Morrow: Bob Nixon.

Mr Sorbara: My friend Mr Morrow interjects with the words "Bob Nixon." I want to tell him that if it were that easy for an opposition member, even the Leader of the Opposition, to influence government policy and government decision-making, this province and this Parliament would be far better places right now.

The Chair: We are diverging slightly. Mr Morrow, I hasten to add that you will have your opportunity to speak and to make those points at some later point in time if you wish to, but please do not interrupt Mr Sorbara.

Mr Sorbara: Mr Chairman, it is going to be very difficult for us to find out what happened in those intervening four hours or so.

Mrs Mathysen: Bob Nixon.

Mr Sorbara: Some other member mutters "Bob Nixon" as well. I think it is Mrs Mathysen. I repeat once again, sir, it surprises me that a member would actually believe that. I know that for the consumption of the press it is quaint and convenient to suggest that the Premier reconsidered his views on the basis of a suggestion from Bob Nixon.

My concern is that during that period the Premier did not make any of the kind of inquiries that he ought to have made. He did not, for example, make inquiries as to whether or not the minister responsible for women's issues took counsel from her ministry, the people who work in the directorate.

One thing I know for sure is that the letter the minister responsible for women's issues signed was not typed by her. Although she has not told me that, I would bet just about everything I have that she did not type the letter, she did not get the piece of stationery out and prepare it. It means that at least one other person in the Ontario women's directorate was aware of the fact that the minister responsible for women's issues was planning to write to the College of Physicians and Surgeons of Ontario in its capacity as a quasi-judicial body.

The Chair: Can you stick to the issue at hand, sir?

Mr Sorbara: Mr Chairman, I want to indicate to you why this forms part of the argument that is the subject of this motion. This motion provides that we complete our discussions on conflict of interest as of a particular date. The guidelines that we have before us are the subject of the discussion, so anything I say related to the guidelines and how they are applied in Ontario is relevant to the debate. If, sir, you want to have five minutes to consult with the clerk or take your own advice or consult with the Speaker on this matter, I am perfectly willing to agree to an adjournment of five or 10 or 15 minutes while you make those consultations, but I assure you that my own experience of—

The Chair: I am just suggesting that you slide back to the issue of the timetable that Ms Gigantes's motion spoke to.

Mr Sorbara: The issue of the timetable is the issue of the entire matter that we have discussed, so it is, in short, the broadest of discussions. Any closure motion, any motion to restrict or allocate time in respect of a matter before a committee or the House is, under our parliamentary rules and precedents, the broadest of discussions. If you want time to consider that matter, you just have to indicate to me and then you can discuss that with the clerk.

The Chair: Go ahead, sir.

Mr Sorbara: As I was saying, obviously one other person knew that the minister responsible for women's issues was proposing to write to a quasi-judicial body to try and influence it in its decision.

Mr Morrow: On a point of privilege, Mr Chair: Can you please tell me how dealing with these two cases last week has anything to do with the mandate of this committee?

The Chair: That is not a point of privilege.

Mr Sorbara: As I was saying, at least one other person in the Ontario women's directorate was aware that the minister responsible for women's issues was at least proposing to write to a quasi-judicial body in its capacity as a quasi-judicial body to try and influence that decision. We already have it from the minister that what she did was wrong and we all appreciate that what she did was wrong. The question that arises, I submit to you, sir, and to the members of this committee, is, who else in the Ontario women's directorate was aware that the minister responsible for women's issues was proposing to interfere with the decision of a quasi-judicial body?

Ms Gigantes: Why do you want to know that, Greg?

Mr Sorbara: My friend the member for Ottawa Centre interjects with a question. Why do I want to know that? That is just where I was getting to in my remarks, so I will tell her.

The Chair: The member for Ottawa Centre will have the floor after you are finished.

Mr Sorbara: It may be a while before my friend for Ottawa Centre has the floor, sir.

The Chair: I think she can probably ask you those questions at a later point. Go ahead, sir.

Mr Sorbara: I will always accept an interjection which poses a question like that because it helps me focus my remarks. So, sir, I say to her, through you, because all remarks have to be addressed through the Chair, that it is entirely relevant. Who else in the Ontario women's directorate knew that the minister was proposing to try and influence the decision of a quasi-judicial body? If, for example, the minister simply heard about the issue and determined on her own to write a letter to try and influence and if she took pen in hand and crafted a letter and provided it to a stenographer in the ministry and that stenographer reproduced the letter on letterhead, that is one set of circumstances.

I would say that as far as this aspect of the issue is concerned, the matter is closed, but if a different scenario existed—let me propose one. If, for example, the minister was lobbied by a group to write a letter, to speak up, to express an opinion, which is probably the case, I suspect, although I do not have any evidence that someone came to see the minister or some group wrote to the minister and suggested to the minister that she do something about this outrageous case—and it is an outrageous case; I think we all agree on that—if that happened and then the minister, confronted with the request, began to seek advice within the Ontario women's directorate, then we have a problem. We have a very serious problem. As I said in my remarks apropos of the Premier and what he did during the four hours when he changed his mind, we have to know what

inquiries he made and we have to know what inquiries the minister made before she determined to write the letter.

1610

If she made inquiries within her ministry, to whom did she speak? From whom did she get advice? Who did she tell that she was proposing to write a letter which she now acknowledges was wrong to write? For example, did she speak to one of her political assistants? Political assistants are not civil servants; they are not part of the bureaucracy, narrowly defined. They are there in the Ontario women's directorate, as in all ministries, to be the political support for the minister. I ask whether the minister approached one of her political advisers, one of her political staff, to reflect on whether or not she should write this letter. I do not know, but I think it is important. If she did that, why did the political adviser, who after all is there to assist the minister in abiding by the guidelines, not advise the minister that it was inappropriate to write that letter?

It is like the Mohammed Al-Mashat affair. Who knew what and when? We all know that—

Mrs Mathysen: Are you using hyperbole?

Interjection.

Mrs Mathysen: You do not think Mr Sorbara is using hyperbole?

Mr Harnick: He is extremely serious and I think he means everything he says today.

Mr Sorbara: I simply say to Mrs Mathysen that if you ask the Secretary of State for External Affairs in the government of Canada or the incumbent Minister of Employment and Immigration or the incumbent Minister responsible for Constitutional Affairs whether they think the matter is light—

Mrs Mathysen: No, no. I was referring to your use of hyperbole. It is wonderful.

Mr Sorbara: I am glad you are paying attention, because I am not using hyperbole. I am raising matters which I think are deadly serious.

I was at the point of questioning out loud whether or not the minister consulted with political staff. Political staff, by the way, have a very specific role in the way in which our cabinets and our parliamentary system work. The political staff are there to give appropriate political advice to ministers so that their judgements in terms of substance and their judgements in terms of politics are good, solid, appropriate judgements. We need to know whether political staff spoke to the minister about this matter and we need to know if political staff said to the minister: "You can't do that; it is against the guidelines. It is not only against our Premier's guidelines; it is against guidelines that have governed cabinet ministers in Ontario for two decades at least."

I think those inquiries are going on now and I think we need to know the answer to those inquiries. But I am not sure that with the kind of closure motion we have here, this committee will ever get a chance to ask those questions.

Assuming for a moment that the political adviser said to the minister, "You can't do it," then why did the minister not take that political advice? Why was she so repentant

when the matter was reported in the Ottawa Citizen but did not heed the advice when she was advised not to write such a letter by a political staffer? Again, I am assuming that the political staffer understood the guidelines and gave the right advice.

Let's take a different scenario for a moment. Let's take the scenario which has the political staffer saying: "Yes, I think you should go ahead. You are an advocate. You have been an advocate for years. This is an important issue. You ought to speak out on it." That political advice to a minister is normally deadly poison. I repeat, that political advice to a minister would be deadly poison because under normal circumstances—I know it did not accrue under these circumstances—that sort of advice, if followed by a minister, would be the end of the minister. I think we all agree about that.

Bob Rae seemed to suggest that here the cause was just. There was no harm done to the public good and there was no furthering of private interest—and I will get to those three criteria in a minute—but here we have a situation where because of those three criteria the Premier says, "It is okay this time; she is staying in cabinet," even though at about 1:30 or 1:45 she was gone; the resignation had been accepted.

By the way, just a little anecdote for you and the other members of the committee, if you saw a copy of Ms Swarbrick's statement to the House on that matter, her statement of about a page and a half long ended with the words "and so I have submitted my resignation to the Premier (and the Premier has accepted it)."

She did not yet know whether she was going to use those words. In fact, if I recall correctly, she did not use those words. The Premier later stood up and explained why the traditions of the Parliament demanded that the resignation be accepted.

What happened in the intervening four hours? I think we should know. We should find out. If we were a sort of non-partisan parliamentary committee responsible for the administration of justice, if none of us had any particular political allegiance, we would be voting unanimously for an inquiry on just that subject.

I remember, by the way, in a minority Parliament, a parliamentary committee made just such an inquiry into the activities of Elinor Caplan, the member for Oriole, and René Fontaine, the former member for Cochrane North. But I do not think, given the way in which we play our politics these days, we are going to get an opportunity to make those inquiries.

But I am interested to know because we have got down to the level of the political staffer, the political adviser. Was a political adviser consulted by the minister and what was the nature of that advice? Surely to God, if the advice from that political adviser was to go ahead and write the letter, somebody has got to do something about that staffer. He or she has to be re-educated about what the guidelines entail or, I would suggest, dismissed from office because the job of the political adviser is to protect the minister from those sorts of pitfalls.

Let's go just one step down the road, to the bureaucracy, to the Ontario women's directorate. I want to tell you that I had the privilege for two full years to be minister responsible for women's issues in this province, one of the

most challenging responsibilities I have ever had in my life because the issues are so volatile and the dramatic changes that are going on in the area of women's issues are so very powerful. They are changing our society dramatically.

So I am taking us one step along this adventure and I am taking us to the level of the senior bureaucrats in the Ontario women's directorate.

1620

The reason I mention that I was minister for two years is as authority for the proposition that I know how that place works, just like my friend the parliamentary assistant for the Solicitor General is getting to understand how the Ministry of the Solicitor General works. When you are minister, you get to know it even more intimately.

If I had to rely on my own experience as minister responsible for women's issues, I would have to testify that a minister responsible for women's issues, before she writes a letter of the kind that was the subject of the letter of resignation, should consult at least with the director of the Ontario women's directorate, the deputy minister, the senior civil servant in the Ontario women's directorate, and often with at least two other senior officials, the senior person responsible for communications and the senior person responsible for policy.

Let me put it to you this way, sir: under no circumstances would any minister responsible for women's issues that I have encountered during the Tory era, during our own time—and I cannot say subsequently, because there has only been one and I do not know her that well—but generally, no minister would write that sort of letter on ministry letterhead without consultation with her senior bureaucracy. Do you want me to tell you why? Because you cannot hide the letter; because copies are made; because the fact that the letter is written gets around.

I remember once as minister responsible for women's issues I was proposing to write a letter and I had not checked with the senior bureaucracy. A director at the Ontario women's directorate, at that time a woman named Naomi Alboim, came to see me and said, "I hear you are proposing to write so-and-so and such-and-such." It was not a letter to a quasi-judicial body, it was just in the normal course of business, but she thought it was important enough to come to me and say, "I do not think you should write that sort of letter at this time." This was before there was even a draft made.

It is almost inconceivable that the minister could consider writing the kind of letter that she wrote without word of it getting around to the senior bureaucrats in the women's directorate, and it is inconceivable indeed, if my experience is any teacher, that the director and at least a couple of the senior civil servants would not come and advise the minister that what she was doing was a breach of the legal guidelines about interfering with a quasi-judicial body.

I want to tell my friends on this committee, I have to assume, given my experience as minister, that at least two or three senior bureaucrats in the Ontario women's directorate knew a long time ago that the minister was proposing to write this letter, and that the minister did write the letter.

I want to tell you, sir, that this raises very serious problems. I hope you understand why this is so serious: be-

cause there is a responsibility on the part of senior civil servants to advise the central administration of the government when a breach of this type is about to occur or has occurred.

It is not so much whistle blowing, although the New Democratic Party has proposed to bring forward whistle-blowing legislation to allow civil servants to blow the whistle with impunity. We want that to happen. But my argument has taken us down the road this far, that in all likelihood, some time back in early March, even before the minister wrote the letter, senior members of the Ontario women's directorate were aware that a letter either was written or was about to be written.

Now you have to start to ask yourself the following questions: Who knew what when, and what did that person or those people do about it? I want to tell you what the story going around is. The story going around is that the director of the Ontario women's directorate was, indeed, aware of the letter, and had given very strong advice that the letter not be written, because you do not interfere with a quasi-judicial tribunal. The advice was clear. The advice was rejected. A political posture, a violation of the guidelines was preferred over sound advice, and then an objection was made by someone in the Ontario women's directorate to someone in the Premier's office.

Now the question is, who in the Premier's office was aware that there was a proposal to write this letter or that the letter had been written? Did anyone in the Premier's office speak to anyone in the Ontario women's directorate about this intervention before a quasi-judicial body? If that is the case—and in normal circumstances that would happen—what did that official in the Premier's office do with the information? Let us suppose the official did what he or she should have done. Let us suppose the official brought this matter to the attention of the Premier. If that is the case, then the Premier's suggestion in the House last Thursday that the first he knew of this was Thursday morning, was in error, to be gentle about it.

Do you know what, sir? I do not think the Premier was in error. I think the Premier was genuine when he said to us in the House that he first heard of this matter a few hours before, that is Thursday morning. But the question then arises about what the officials in the Premier's office did with the information they had from the Ontario women's directorate, because they, of all people, would be even more familiar with the guidelines than a new political staffer in the office of the minister responsible for women's issues.

These are serious matters, because the minister responsible for women's issues wrote the letter—when, 4 March, is it? If we had a copy of Hansard here, I could confirm the date, but let us assume 4 March. That is over three months ago. We were still in the winter season. There was still snow on the ground. It was still cold. Now it is hot. Now the heat is on the minister, it is 13 June, and suddenly a story breaks on the pages of the *Ottawa Citizen*, and only then did the minister stand up and say, "What I did was wrong."

1630

What I want to know, sir, is how many people in what positions in our great government in this great province

were aware that the Minister without Portfolio responsible for women's issues wrote the letter that she wrote to the College of Physicians and Surgeons of Ontario on 4 March.

My friend the member for Ottawa Centre suggested in her interjection by way of question that this is not important. My God, I think it is crucially important. It is certainly as important as what officials knew about the fast-tracking of Mohammed Al-Mashat into Canada as a landed immigrant. After all, with Mohammed Al-Mashat there was no breaking of the law. I want to tell you, I wish every application for permanent residence to this great country was handled as quickly as that application was. Not that every one is accepted. I would have said, "No, I am sorry; you do not qualify for security reasons." But I practised immigration law for quite some time and I used to be appalled at the delays in considering applications. Sometimes families would be separated for months and years because the system was so bogged down.

So my response to the Al-Mashat case is that everyone should have his or her application handled that quickly. Not everyone should be accepted and Al-Mashat probably should not have been accepted, but needless to say, there was no breach of the law. The law was upheld. In fact, it was a model of processing of an application, a gem. The difficulty in that situation is that under normal circumstances, the application should have taken two years.

Mr Morrow: On a point of order, Mr Chairman: I understand that the member for York Centre has a right to speak to the motion and we have let him ramble on for roughly 45 minutes, but can you please ask the member to go back to the motion?

The Chair: I have already spoken. You can certainly ask him; however, Mr Sorbara has the floor.

Mr Sorbara: I say to my friend the member for Wentworth East—

Ms Gigantes: On a point of order, Mr Chair: The problem is this. The motion before us is one that calls upon us to complete our work by 5:30. The effect of what the member opposite is doing is to prevent us from being able to pass this motion. I would ask you to ask the member how long he intends to speak. Can we ask for a fair allocation of time which would nevertheless allow us, if we wish to pass this motion, to vote on it and complete it and effect the motion? Otherwise, he is destroying the motion by hogging the time, to put it simply.

Mr Sorbara: Let me just say to you, in that regard, that I will speak in due course as to why this motion is in itself out of order. The suggestion that I somehow—

The Chair: Are you wishing to speak on that question?

Mr Sorbara: I am saying that I will in due course during my remarks speak to whether or not I think this motion is in order.

Mr Morrow: Can I ask you please to rule on Ms Gigantes's point of order?

The Chair: Are you willing to suggest how long you will be taking?

Mr Sorbara: No, I have not decided that yet. I would not want to mislead the committee.

The Chair: I did not think you would be willing to. Go ahead, sir.

Ms Gigantes: There is no point of having such a motion—

Mr Sorbara: Then withdraw the motion.

Ms Gigantes: —if you are going to allow this member to prevent it from being put into effect.

Mr Sorbara: I will cede the floor if my friend the member for Ottawa Centre wants to withdraw the motion. I have not even begun to deal with the technicalities of the motion.

Mrs Mathysen: That was already voted upon and adopted.

Mr Sorbara: I think before the points were raised—

The Chair: The issue about the time was brought up and debated for a great deal of time at the sitting yesterday. I think it is not inappropriate to suggest that you find some time, in terms of allocation, so that it can be available. How much time do you think you could take, sir?

Mr Sorbara: I have not yet determined that. After all, I have been interrupted on a number of occasions here. I just want to point out to you, sir, that if you look at the way in which time allocation motions—which this really is—are presented in the Legislature, they are always open-ended. They begin to take effect after the motion is passed by the House.

The Chair: I am aware of that.

Mr Sorbara: So it refers to the sitting day after the motion is passed. But this is highly irregular, to require a member to constrain his remarks so that a motion can be relevant. That is part of the problem with the motion and that is why it is entirely out of order.

If, for example, the motion had read that the Chair put every question necessary to dispense with a new draft report by 5:30 on the sitting day following the passage of this motion, it would have logically made sense. But no Parliament in the history of the parliamentary democracy has ever cut off a speaker because "if he speaks too long, the very motion that he is speaking about becomes irrelevant."

The Chair: The issue, though, is something which was decided yesterday in terms of the schedule—

Mr Sorbara: No, sir, I am sorry.

The Chair: In terms of the schedule of the submission of reports, that was decided yesterday and I think debated at some length, and on two occasions yesterday I set aside a request for closure. I do not think it is overly rigid to suggest that we wind up today. Your colleagues yesterday spoke at some length, as did members of all sides, on essentially the same issue. I would suggest that we wrap up, sir.

Mr Sorbara: I find that offensive.

The Chair: I appreciate that.

Mr Sorbara: The Chair does not suggest that members wrap up, particularly on time allocation motions, but if you want to refer to the motion of yesterday, that motion is now functus, because it provided that the report be completed by yesterday.

Mr Morrow: On a point of order, Mr Chair, please: In your capacity as Chair, can I please ask you to rule on Ms Gigantes's point of order, which I really do not feel you have, because she has asked—

The Chair: The motion that was passed yesterday is in order with the exception of the time frame, of "complete by" whatever, yesterday. So the issue of the timetable is already established. I would suggest we—

Mr Harnick: Nothing is established.

The Chair: I have already ruled on that, sir.

Mr Harnick: A point of order.

Mrs Mathysen: It most assuredly is established.

Mr Harnick: A point of order.

The Chair: Mr Morrow was asking first for me to rule on Ms Gigantes' motion. I have suggested—

Mr Harnick: A point of privilege.

Mrs Mathysen: Not unless you are kidnapped, Charles. Get that right.

Mr Harnick: Well, I am being kidnapped. Kidnapped and hijacked all at once.

The Chair: I have suggested to Mr Sorbara that he please wrap up by a certain period of time.

Mr Morrow: Thank you, Mr Chair.

The Chair: Mr Sorbara.

Mr Sorbara: I will just continue my remarks and—

The Chair: Would you please indicate how much time you need, sir?

Mr Sorbara: Sir, I simply want to tell you that the Chair does not have the authority in a committee of this sort to require a member to indicate how much longer he will be speaking unless there is unanimous consent of the committee that each member will be allocated a specific amount of time. I would just ask the clerk to confirm that or give us other advice.

The Chair: Go ahead, Mr Sorbara.

Mr Sorbara: If I can just continue now. I think we are through with all the points of order. I think I was on the Al-Mashat matter and—

Ms Gigantes: No, you are wrong, you were not. You are confused again.

The Chair: Mr Sorbara, return to whatever you wish to.

Mr Morrow: Mr Chair, I asked you to rule on a point of order that the member was out of order.

The Chair: I did.

Mr Morrow: Well, then, he cannot return to that point.

Mr Sorbara: I am sorry, I am not on a point of order. I am speaking to a motion.

Mr Morrow: Can he please speak to the motion.

The Chair: Mr Sorbara.

Mr Sorbara: Thank you, sir. Notwithstanding what Ms Gigantes has said, I was on the Al-Mashat matter and I was pointing out that in my own view there was no law broken there. What did occur was that the normal procedures that govern the consideration of an application for permanent residence were overridden in the sense that an

individual's application was put at the front of the line. There is nothing illegal about that and in certain cases it is required. Under the Immigration Act, as I understand it and understood it when I was practising immigration law, a minister has the ability to expedite an application. In certain instances, for example when there is some threat to an individual or there is some other perhaps humanitarian or compassionate reason, the Minister of Employment and Immigration does expedite an application.

1640

The interesting thing in Al-Mashat was that the application was expedited as quickly as any application has ever been expedited in the history of that ministry and yet nobody knew who was responsible. A parliamentary committee not unlike this one was unable, even with high-ranking officials and ministers before it, to get to the bottom of the case.

For example, Joe Clark, the Minister responsible for Constitutional Affairs—

The Chair: Mr Sorbara, please return to the provincial Parliament.

Mr Sorbara: I am going to help you out a little bit by just telling you that I am making this argument to build an analogy between the cases of conflict of interest, which are why we are here, the subject of our guidelines, and other matters of a similar sort. Just to recap and review with you, sir, I am trying to establish here before this committee, for Hansard and for others, how important it is that we find out who Ms Swarbrick consulted before she wrote the letter and what those people did as a result of that consultation. I am using the Al-Mashat matter as a comparison to build my case.

The Chair: It would be edifying to at least maintain ourselves with provincial issues.

Mr Sorbara: Sir, if you do have a problem I would suggest that you cede the chair to your Vice-Chairman and consult with the Clerk of the Legislature, M. DesRosiers, or the Speaker himself. I think you will probably find that what is inappropriate here are your interjections in my remarks. Your responsibility, sir, is to keep order in this committee. I have the floor.

The Chair: You do so.

Mr Sorbara: I could conceivably have the floor for several days on this topic.

The Chair: You could, sir, and you do, sir. Please go ahead.

Mr Sorbara: We will expedite matters if you restrain yourself in your own interjections, I say to you, sir, with all due respect, and you attempt to restrain the government members from interjecting.

The Chair: I think it is quite appropriate for me to ask you to turn to the issue at hand. However, it is also quite appropriate for you to ignore that interjection if you wish to.

Mr Sorbara: Okay.

The Chair: As you know, sir.

Mr Sorbara: I am taking your wise counsel, with the respect that is appropriately accorded to it.

I was talking about the Al-Mashat matter, was I not? In Al-Mashat we had, I think, three ministers testify before the committee. Those ministers were able to stonewall that committee sufficiently so that it has become very difficult for that committee to establish the truth of the matter. The allegation from each of the ministers is that they did not know anything about it until it was raised by the press. You will recall that Joe Clark blamed his chief of staff. That was a cruel one, a real, real cruel one. But notice, I say to my good friend from Durham East—

Mr Harnick: It is sort of like Mr Farnan and his probationary—

The Chair: Mr Harnick, please allow Mr Sorbara the floor.

Mr Harnick: Very cruel.

Mr Sorbara: Now there is an inappropriate interjection and one that I welcome.

In any event, the notion that Clark and the others would look for scapegoats is interesting here. As I suggested in my argument in respect of the Minister without Portfolio responsible for women's issues, the Al-Mashat case is instructive, because the political advisers did know before the ministers. That is what political advisers know. This is the stuff that they work with, this information that comes to them. So it is almost inconceivable that the chief of staff or the executive assistant to the Minister without Portfolio responsible for women's issues did not know that she was planning on writing a letter. That is almost inconceivable. The only situation where no one in the directorate could know about it is a situation where the minister herself took out the stationery, sat down at the typewriter and tapped out the letter, did not make any copies, did not log it, just sent it on to the college of physicians and surgeons.

Now, that would have been really cute, because sometimes they do that so that they can have what is called in these circles deniability. Do you know what deniability is? It is: "Well, no, we didn't write that letter. That is not my signature. Come and look at our files. You can't find a copy of that letter in our files." But I think in this case the minister was not looking for deniability. She acknowledged her mistake. The Premier acknowledged the mistake, and indeed the Premier at one point accepted the resignation.

I reiterate, I think we have to know what happened in those four hours between the acceptance of the resignation and the rejection of the resignation. I say that because I think what is really on trial here is not the conduct so much of the minister responsible for women's issues but the competence of the Premier himself. The reason I say that is that I would judge the competence of the Premier, not based on what decision he made but on what advice he sought, what inquiries he made apropos the submission of a letter of resignation from our good friend and colleague the member for Scarborough West, the then and now minister responsible for women's issues.

I do not believe the Premier made any such inquiries, but I think those sorts of inquiries ought to be made. If, as a politician, you think the federal committee was doing its job making an inquiry into the Al-Mashat affair, how could you at one and the same time propose that no such inquiry

ought to be made here? Who else knew? What advice was given? I am scandalized at the notion that perhaps several months ago the director of the Ontario women's directorate knew that the letter was written. I say parenthetically, sir, to you and to the members of this committee I would like to know what advice the director of the Ontario women's directorate gave to her minister in this regard.

The Chair: You have covered Mashat and perhaps you could go on to another subject.

Mr Sorbara: If you keep interjecting, sir, I can go into great detail on Mashat.

The Chair: Please, go ahead.

Mrs Mathysen: It does not matter what you do; you are damned if you do and you are damned if you don't.

Interjections.

The Chair: Mr Sorbara, you have the floor.

Mrs Mathysen: I am sorry, Mr Chair—

Mr Sorbara: Before Mrs Mathysen leaves the room, let me say this to her. You are not damned if you do and damned if you don't. If you, as whip—

Mrs Mathysen: Mr Sorbara, if someone—

The Chair: Mrs Mathysen, please. Mr Sorbara, you have the floor, sir. Return, please, to the question at hand.

Mrs Mathysen: I would say to Mrs Mathysen, parenthetically, that if she can prevail—

The Chair: Why do you not speak to the Chair parenthetically, rather than to Mrs Mathysen? She was out of order.

Mrs Mathysen: That is right. You should address your remarks through the Chair. I am helping you.

The Chair: Mr Sorbara, have you finished your remarks?

Mr Sorbara: I simply say parenthetically to Mrs Mathysen, the member for Middlesex, through you, sir, that if she could prevail upon her friend Ms Gigantes to withdraw this motion, and then if she would do me the courtesy of sending a note saying that she, as whip, would like to discuss with me the timing of the completion of this business, I could make this speech a very short speech. I have not once received a note from Mrs Mathysen.

1650

The Chair: Would you be willing then to recess to do that?

Mr Sorbara: No. All I need is a note saying, "We're going to withdraw the motion and we'd like to sit down with you between now and 6 o'clock to talk about the timing of the completion of the report." I think, for example, it is going to take us about another week and a half to two weeks to complete our dissent. We would like you to finish your work first so we can refer to the recommendations that you're making. By the way, our dissent will not carry much weight. It will not prevail when the report returns to the Legislature, so I do not think you run a very big risk of doing that. But I leave that entirely up to the government members. We can debate this motion for several days or several weeks, or the motion can be withdrawn and the whip could send me a little note saying, "I'd like to talk to

you over a cup of coffee about the timing of the completion of our work."

Mr Mills: You said you needed two days.

The Chair: Mr Sorbara, go ahead, sir.

Mr Sorbara: To complete the writing of the dissent?

The Chair: Mr Sorbara, please.

Interjections.

Mr Sorbara: In any event, I am trying to use the Al-Mashat matter, which has been covered so extensively in our national press, to build the case that argues, I think effectively—I know I have the attention of my colleagues in the Progressive Conservative Party, at least for a little while—that the Premier ought to make inquiries within the Ontario women's directorate and within his own office to determine who knew what, why and when. That is what is relevant.

Now, my friend from Guelph mouths the word "Why?" and I am going to answer him because—

The Chair: Your friend from Guelph does not have the floor. You do, sir.

Mr Sorbara: I know. I am just noting for the record—

Mr Morrow: With Mr Sorbara's indulgence, I would like to ask him if we can have a couple of minutes so he and I can confer about some things. I assure you, Mr Sorbara, that I will give you the floor when we are done. Is that fair?

The Chair: Mr Sorbara, you would still have the floor when we resume.

Mr Sorbara: Why do I not just move a motion that this committee adjourn for the day and have a 20-minute bell, and then I will return after? I consent to adjourn for 20 minutes.

Mr Morrow: I want to talk to you for a couple of minutes; that is all I want to do.

Mr Sorbara: Sure, I do not mind.

Mr Morrow: You can have the floor when we come back.

The Chair: Five-minute recess.

The committee recessed at 1654.

1705

The Chair: We have resumed. Mr Sorbara.

Ms Gigantes: On a point of order: I would just like to report to other members of the committee that the attempt to have the opposition agree to a date which, following the tabling of a report on this reference, would be a reasonable date for it to do a dissenting report—it was impossible to reach any accommodation on that matter.

Mr Sorbara: That is not a point of order.

The Chair: I am not sure that is a point of order.

Mr Sorbara: I think I have the floor on the motion.

The Chair: Go ahead, Mr Sorbara.

Mr Sorbara: So long as that matter was raised, even though it is not a point of order, I should just say a word about it parenthetically. In trying to deal with the motion we have before us, which is really a time allocation motion, I want to make it clear once again that our party would have been entirely willing to agree to a specific date by when a

dissenting report would be submitted. That is to say, we in fact suggested that three weeks after we received the report written by the majority on this committee we would have a dissenting report ready for the clerk to have transcribed and incorporated into the report. We were willing to agree.

Ms Gigantes: If you are still willing to agree to that, let's talk about it.

Mr Sorbara: I want to say to my friend the member for Ottawa Centre that we are completely willing to agree to that. There is some concern from the Progressive Conservatives about the specific date when the entire report, including its dissent, is submitted. What I and my party are not willing to agree to is to incorporate that in a motion of the sort before us now. The reason is because I find, in my own judgement, based on the rules of this House and the procedure before committees, this a motion that is out of order and inappropriate and ought not to be considered. I will get to that topic in my remarks, but if we all want the clerk to write up a document saying this is the way we are going to proceed and we all put our John Henrys on it, I am perfectly willing to do that. I said that during the recess.

The problem the member for Ottawa Centre has is that she wants her time allocation motion to succeed. I want to tell her that it is inappropriate, it is offensive, it is without precedent before a committee like this and it is simply not acceptable to us.

Ms Gigantes: On a point of order, Mr Chair: If it were possible to understand what the member for York Centre is suggesting, perhaps we could have an agreement about how to proceed. Is he referring to the first part of the motion—namely, that which calls upon us to deal with the outstanding matters in the draft report by 5:30 tonight—as a time allocation motion or is he referring to the question in the second part of the motion, which deals with the time framework for the tabling of a report and a dissenting report, as a time allocation motion?

Mr Sorbara: Those are interesting questions; they are not points of order. Of course, I am not allowed to answer them, but I will anyway, sir, to see if we can further this matter.

Ms Gigantes: They are points of order.

Mr Harnick: On a point of order, Mr Chair: If there is some genuine idea that we can break this impasse, why do we bother debating about it across the table? Why do we not see if we can get this thing settled? Let's adjourn and do this properly, because it is not a point of order.

The Chair: Would you like to recess for five or 10 minutes to do that, sir?

Ms Gigantes: I suggest five, Mr Chair.

Mr Harnick: Why impose another time limit? Let's do it.

Ms Gigantes: Because we cannot deal with the motion.

Mr Sorbara: I will be about 15 more minutes on the entire topic, at least on the subject I am on. Listen, I could continue discussing this. Perhaps Mr Harnick and Ms Gigantes want to go off on their own, stroll in the park and simply discuss it, see if they can come to an agreement.

The Chair: Would it not be possible for you all to go out together to come to an agreement, or is it impossible?

Mr Sorbara: My position, sir, is crystal clear.

The Chair: You are not willing to negotiate with these members, then.

Mr Sorbara: I appreciate that a member of this committee has the authority under the standing orders to move a time allocation motion for the committee. There are many precedents—

The Chair: We would like to recess for five minutes so the position can be clear.

Mr Sorbara: No. I am sorry, sir, but not in the middle of a sentence.

The committee recessed at 1710.

1717

The Chair: Can we resume now? We are resuming.

Clerk of the Committee: The understanding that I believe we have between the three parties is that the motion would be withdrawn, that we would continue where we were on the report, which was the section on parliamentary assistants, we would get all of the motions for the report to the researchers by 5:30 today, the final report would come back to the committee on Monday 24 June, dissents would be due three weeks following 24 June and the report would then be tabled after the dissents are printed, translated and bound in proper form for tabling.

The Chair: Could I have a clarification? I was not part of that negotiation. Does that include votes on issues that are still outstanding at 5:30?

Clerk of the Committee: That would all be done before 5:30 today.

Mr Harnick: Just so that we are not confused about this, I gather that we will be tabling the report and the dissents immediately upon completion rather than waiting until the Legislature resumes. Is that what everybody wants?

Ms Gigantes: You cannot table when the Legislature is not in session.

Mr Sorbara: Yes, you can.

Mr Harnick: I am not so sure about that. I understand you can do that. Do you want to do it when the Legislature is back on 23 September or do you want to do it whenever the translations are done and the paper is bound?

The Chair: Do you have an agreement on that point?

Mr Harnick: I do not know if we have an agreement on that point.

Ms Gigantes: Yes, we do.

Mr Harnick: What is the agreement we have? Because I have not been made part of it.

Ms Gigantes: What would you like?

Mr Harnick: An agreement is usually something between two consenting people.

Ms Gigantes: What would you like? I am asking you, what would you like?

Mr Harnick: I did not hear anything from the clerk about when we would be tabling the report. Accordingly,

we have no agreement. Your understanding was that we could not table the report until the Legislature resumes.

Ms Gigantes: I was mistaken.

Mr Harnick: You were mistaken.

The Chair: The clerk says that as soon as the report is translated and bound, it will be tabled.

Mr Sorbara: But he does not want that.

Mr Harnick: Is that what we have agreed to?

Mr Sorbara: No. I agree to that.

The Chair: Excuse me. Are you suggesting that we delay until 23 September?

Mr Harnick: I do not know. I do not know what the government's position is.

Ms Gigantes: We are relatively easy. What would you suggest, Mr Harnick?

Mr Harnick: I frankly could not care less.

Ms Gigantes: Then choose one, please.

The Chair: Why are we debating something if you could not care less about it?

Mr Sorbara: It is not our motion that is on the floor.

Mr Harnick: We did not create this logjam. Now you want an agreement so that we do not run into problems later on. If I came back later on and this was not part of the agreement and I said, "No, no"—

Mrs Mathysen: Oh, isn't that cute. You say one thing one minute and another the next.

Mr Harnick: No, no. That is not what I am saying. I am saying that we should have a concise and complete agreement. When do you want to table the report?

Ms Gigantes: Whenever you would like, if you make a decent suggestion. Make a decent suggestion.

Mr Sorbara: I suggest that we are ad idem on almost all points except the question of when the report is tabled. My suggestion would be that we give the clerk a reasonable amount of time to prepare the report in appropriate form for tabling and that the report be tabled thereafter upon the instructions of the subcommittee but in any event no later than the first day when the session resumes; that is, September the whatever. How is that?

Mr Harnick: I can agree with that. What about the government? Do you agree with that?

Mrs Mathysen: I want a clarification. There are too many vague words there, are there not?

Ms Gigantes: Spell it out. Let's have it spelled out.

The Chair: They have a last date, but the tabling could occur before that last date.

Mr Sorbara: Just again to review the terms of the agreement, the motion before us is to be withdrawn, so we do not have that motion. Therefore, the committee has its regular business before it; that is, the guidelines themselves. This motion then need not be dealt with. It is withdrawn by the mover.

The second point is that you folks do whatever you want and complete the report. I just assure you that, for our part, my members, we have no more to say on the matters that you will raise in completing the deliberations this

committee has to do. Okay? We may vote against your motions, but we do not have any more speeches to make. There is no time allocation. We finish it when it is finished, but you can rely on our assurance that we have no more comments to make and that we reserve the right to vote either for or against, depending on what you propose. That is the second thing.

Then the report gets prepared. We ask simply, in terms of this agreement, that we have three weeks from the date we get the final document to prepare our dissent. We agree to that. If we are one day late, please do not punish us. Then the whole document goes to the clerk to be prepared for submission and tabling in the House. It is translated and put in a form suitable for tabling.

After that point—the clerk is also going to be having us travel around Ontario discussing Sunday shopping—thereafter, the subcommittee will decide as to the timing of the tabling but in any event it cannot choose a date later than the first day that the Legislature is sitting in the fall session. I think I have just summed up the terms of a reasonable agreement. If there is discussion on it, I think the Chair would be interested in listening to those discussions.

The Chair: Is there agreement on those points?

Mr Harnick: The only thing that was not mentioned in that summary, and I do not know whether it is at all significant, is the date of 24 June. The way it was worded, the dissents, the minority opinions, would be available three weeks following whatever date the final report was delivered. Is there some necessity that the final report has to be delivered on 24 June, or are we waiving that? I think 24 June was part of the agreement and I think it should be mentioned.

The Chair: I think it should be, because 24 June is the next meeting of the committee. That makes sense.

Mr Harnick: If the report is available on 24 June, we have three weeks from that day. If the report is not available 24 June, but is available at a subsequent date, then we have three weeks from whatever subsequent date it is delivered. But at a minimum, the opposition parties will have three weeks from the 24th to deliver their dissents, if you decide to rush the report and get it to us faster than the 24th. We want three weeks from the 24th and that has always been my understanding. Do you want to put the 24th in that summary?

The Chair: The clerk had it in her original summary. Go ahead, Mr Sorbara.

Mr Sorbara: Just on the very narrow matter of the 24th, I think Mr Harnick is wrong to incorporate that date. I fully expect that it will be done by the 24th, but that is your affair. I gave my summary in very careful terms. We undertake, as a party, not to raise any more matters in terms of debate. In other words, as you bring forward motions, we are not going to be making speeches. I just want to tell you that every member of the Legislature and all 73 members of your party have the right to come in and sit on this committee and give speeches on motions that are presented.

For our part, we undertake that we will control our members, and as whip, I will control my members so that

will not happen. If the Progressive Conservative Party wants to give that undertaking to the committee, so be it. If your whip wants to give that undertaking to the Chair, so be it. It is my assumption if there are those sorts of undertakings from each of the three parties, the report will be finished and full instructions will have gone out to the researcher.

But anything could happen. Peter Kormos could come down here. There is one member who is not a member of any political party, who got thrown out. He could come down here and speak to the topic if he wanted to. That is why I did not put in the 24th. But whenever you are finished—

Mr Fletcher: He is still a member of Parliament.

Mr Sorbara: Well, he is not a member of the caucus. Excuse me, I made an error.

Ms Gigantes: Are you going to talk through to the 24th?

Mr Sorbara: No, I am finished. I do not want the 24th in there. All I want is that three weeks from the date you are finished, we are finished. But three weeks from the date that you are finished—

Mr Winninger: Charles is saying if we get done before the 24th, he wants at least three weeks from the 24th, which may involve—

Mr Harnick: For all I know, with the haste that you people are obviously in—you are obviously in a tremendous hurry—you could have this report delivered to us tomorrow.

Mr Sorbara: It cannot be done. Well, okay, three weeks from the date that—

Mr Harnick: Three weeks from the 24th, or if the report is delivered after the 24th, from whatever date.

Mr Sorbara: Three weeks from that date.

Mr Harnick: Is that understood?

Ms Gigantes: Let's go.

The Chair: Is there agreement?

Ms Gigantes: There is agreement.

The Chair: Ms Gigantes, are you withdrawing your motion?

Ms Gigantes: Yes.

The Chair: Thank you. We are on the parliamentary assistants stage of the report.

Ms Gigantes: I have a series of motions which I am prepared to put forward. I have copied them for the clerk.

The Chair: Could you read out your proposal in regard to parliamentary assistants?

Ms Gigantes: I am prepared to put all the motions forward together as a package, if that is acceptable to the opposition.

Mr Sorbara: Let's do them one by one.

The Chair: One by one.

Ms Gigantes: Very good.

Mr Sorbara: Hold on a second—

The Chair: You said one by one.

Mr Sorbara: I said one by one. The reason I said one by one is that there may be some that we agree with and there may be some that we do not agree with.

Ms Gigantes: Fine.

The Chair: Ms Gigantes moves, on the question entitled "Parliamentary Assistants," that the new divestment requirements should apply to parliamentary assistants as well as cabinet ministers.

Mr Sorbara: On a brief point of order, Mr Chair: I just wish my good friend would wait just a moment until I find my copy of the document so I can follow along as she goes through the motion.

Ms Gigantes: I cover the waterfront.

Mr Sorbara: I take it once again that we are working from a document dated 27 May 1991. Is that correct?

The Chair: Yes.

Ms Gigantes: Yes.

Mr Sorbara: And we are on—

Ms Gigantes: Page 8, part II, "Application—To Whom Should the Guidelines Apply?" Parliamentary assistants.

The Chair: Any further discussion on parliamentary assistants? All in favour? Opposed?

Motion agreed to.

Mr Sorbara: Just parenthetically on that—

The Chair: Ms Gigantes moves, on page 9 under "Members of the Legislature," that members of the Legislature should be required to provide the commission with detailed statements of assets, liabilities and interests, which statements will be made available to the public by the commission.

Mr Sorbara: That law already exists in the province of Ontario.

Ms Gigantes: It answers the question.

The Chair: All in favour? Opposed?

Motion agreed to.

1730

The Chair: Ms Gigantes moves, on page 9 under the heading "Senior Public Service and Government Appointees," that the committee recommends the incorporation of requirements concerning these two groups into the Public Service Act.

All in favour?

Mr Sorbara: Just hold on a second. You cannot call the question without discussion first.

The Chair: I realize that. I thought we were moving further.

Mr Sorbara: Say "discussion."

The Chair: Discussion.

Mr Sorbara: We will be voting against this because this committee heard no evidence as to the pros and cons of doing what the motion incorporates, and we think it is foolish to proceed on the basis of—

Ms Gigantes: Yes, you did hear evidence.

Mr Winner: Premier Rae made recommendations. It is right in the summary.

Mr Sorbara: We had no discussion on it.

Mr Winner: Read your summary.

Ms Gigantes: Did we vote?

The Chair: Further discussion? All in favour? Opposed?

Motion agreed to.

The Chair: Ms Gigantes moves, on page 10 under the heading "Spouses, Family and Others," that spouses and minor children should be required to provide reports to the commission similar to those for members and similarly subject to public disclosure by the commission.

Discussion? All in favour? Opposed?

Motion agreed to.

The Chair: Ms Gigantes moves, on page 11 under the title "Constituency Work—Communication in the Administration of Justice, with Tribunals and Ministries," that the committee recommend incorporating the Premier's guidelines 19 to 24 into the conflict of interest act.

Discussion?

Mr Sorbara: I just want a moment to consider the direction of that recommendation. May I just hear the motion again?

Ms Gigantes: The clerk has it.

The Chair: You have it in front of you.

Ms Gigantes: You have a copy, I believe.

Mr Sorbara: It is extremely surprising, particularly in view of events over the past two days, but okay.

The Chair: The researcher would like some clarification.

Ms Swift: If I could just have a little clarification on this, my understanding was that under the part I, "Guidelines or Legislation," the recommendation of the committee was that the guidelines be incorporated into the existing act. I took it from that that all of the sections of the guidelines were to be incorporated. This seems a little redundant in light of the previous recommendation.

Ms Gigantes: Fine. It certainly expresses particular approval in connection with this section. That is fine.

Mr Sorbara: You will have some legal difficulty—I would suggest that we withdraw it.

Ms Swift: I do not know if the committee wants me to—

The Chair: It is a committee report, not a law.

Ms Gigantes: Well, the question is before us in terms of the report, which is why I thought I had better prepare a motion.

The Chair: Okay.

Ms Swift: Do you want me then to just make specific or—

Ms Gigantes: It indicates which portion of the guidelines should be fitted into this question in the draft report.

Ms Swift: Just to give it emphasis, then?

Ms Gigantes: Clear direction.

The Chair: All in favour? Opposed?

Motion agreed to.

Ms Gigantes: Mr Chair, on page 12 of the draft report, under the title "Additional Restrictions—Criminal Code Convictions," I recommend that the committee make no recommendation.

The Chair: Do we need to accept that, seeing it is a non-recommendation? Do you want the section to come out, or just to make no recommendation?

Ms Gigantes: No, there is nothing wrong with the section. I believe the section stands on its own and it does not need any recommendation following it. That is what I am proposing.

The Chair: Thank you, Ms Gigantes. So leave the section in, but with no resolution. Okay. All in favour? Opposed?

Motion agreed to.

Ms Gigantes: Mr Chair, on page 13, under the heading, "Gifts and Benefits," no recommendation. Again, I would suggest that we leave the text without recommendation.

The Chair: When you say no recommendation, for my clarification, does that mean that the present conflict-of-interest law or the guidelines would hold precedence?

Ms Gigantes: Obviously, the existing law.

The Chair: The existing law. You are suggesting that the existing law would hold precedence here.

Mr Sorbara: Not that I am going to take any credit for the report in the end but, believe me, the inconsistencies that will arise are rather shocking. You have an act that has a figure of \$200, guidelines that have a figure of \$100, and an earlier recommendation that the guidelines become the law, which means that you have to make a choice between one or the other. Then you have this section where the committee is saying the committee did not make any recommendation. I think you are going to leave the researcher rather confused, and certainly the general public will be wondering what exactly it is you are recommending.

The Chair: I would suggest, given my clarification, Mr Sorbara, that the guidelines would not be enacted in this particular section and that, as Ms Gigantes suggested, the act would still remain.

Mr Sorbara: No, that is not what she is saying. She is moving that there be no recommendation. The impact of moving that means that either the guidelines at, say, \$100 become law, or the law that says \$200 remains the law, but not both, and I think we will be back here trying to—

Interjection.

Mr Sorbara: So all of the guidelines except this one be incorporated into the act.

The Chair: Okay.

Mr Sorbara: I was just trying to point out the inconsistency. It is rather stupid.

The Chair: Further discussion? All in favour? Opposed?

Motion agreed to.

The Chair: Ms Gigantes moves, on page 13 under the title "Additional Disclosure Rules," that we incorporate the Premier's guidelines 10 to 14 into the conflict of interest act.

Mr Sorbara: Same problem.

Ms Gigantes: No problem.

Mr Sorbara: We moved that all of the guidelines be incorporated into the act. Moving these specifically suggests that there is some sort of qualification on that.

Ms Gigantes: No, it does not.

Interjection.

Ms Gigantes: Are we ready for the question?

Mr Sorbara: Can I ask who drew this up? Did anyone give any thinking to it or anyone put some thought behind it?

Ms Gigantes: Yes, we did. Thank you. Yes, we did.

Mr Sorbara: Who did? May I ask whose work this is?

The Chair: Further discussion?

Ms Gigantes: Are we ready for the question?

The Chair: Further discussion? All in favour?

Mr Sorbara: David, is this yours?

Mr Winner: It represents a combination, okay?

The Chair: All in favour? Opposed?

Motion agreed to.

Ms Gigantes: Mr Chair, on the "Meaning of 'Conflict of Interest,'" I had indicated that I would move a motion of definition. I am going to withdraw that motion. That is on page 14. I had indicated, on page 2 of the motions before you, that I would propose a definition. On advice, I am not going to propose a definition.

The Chair: So you are withdrawing that.

Ms Gigantes: Yes.

The Chair: Do you have a response to that?

Ms Gigantes: On page 14, Mr Chair, under the heading, "Miscellaneous"—

The Chair: I am sorry, Ms Gigantes. Does that mean on page 14 in regard to the meaning of "conflict of interest," there is no recommendation at this point?

Ms Gigantes: That is correct.

The Chair: Thank you.

Ms Gigantes: Under the title "Miscellaneous" on the same page, section 13, "disclosure of material changes"—which should be in my motion—"in assets," I recommend that we incorporate recommendations made by the conflict commissioner concerning sections 12 and 13 of the act.

Mr Harnick: Where are those recommendations made by the conflict commissioner? Where are you referring to them?

Ms Gigantes: Those are included in our background material.

Mr Harnick: Which recommendations?

The Chair: Appendix B, May 6. He also, of course, submitted them in front of the committee.

Ms Gigantes: That deal with sections 12 and 13.

1740

Mr Harnick: Are those his proposed amendments?

Ms Gigantes: That is correct.

Mr Harnick: So those are the only amendments of his that you are interested in dealing with?

Ms Gigantes: Those are the ones I am enumerating right here.

Mr Harnick: Those are the only amendments of all those he has suggested that you are—

Ms Gigantes: No, that is not so. You can figure it out for yourself. Here I have mentioned them by name. Mr Chair, are we ready for the question?

The Chair: Further discussion? All in favour? Opposed?

Ms Gigantes: On page 15, Mr Chair, under the title "Section 16, Trusts."

The Chair: Ms Gigantes moves that where the test of unusual hardship determines that divestment is not required, arm's-length trusteeship shall be required.

Discussion? All in favour? Opposed?

Motion agreed to.

Mr Sorbara: I wish to say that that is not new.

Ms Gigantes: Divestment is new though. Mr Chair, a final motion and then if I could, I would like to maintain the floor just for one final comment which I hope will be helpful.

The Chair: You will have the floor. However, there seem to be two motions on the next page.

Ms Gigantes: Yes, you are right, sorry. Section 25, which is also on page 15.

Mr Sorbara: On a point of order, Mr Chair: can she arrange to maintain the floor down the road?

The Chair: She will have it automatically, will she not?

Mr Sorbara: No.

Ms Gigantes: It pertains exactly to these motions, Mr Sorbara.

Mr Sorbara: Just on the point of order, sir, if she moves motions, we deal with motions; and then another matter comes up and anyone will agree, I suppose, to—

The Chair: You are right, sir, you are right. That would be with the consent of the other members.

Mr Sorbara: We will see when the time comes. You may get another time allocation motion or something like that.

Ms Gigantes: No, you will not. Next is page 15, under the title "Section 25, Subsequent acquisition of land."

The Chair: Ms Gigantes moves that subsequent acquisition of assets will be governed by the same requirements as for previous land holdings. However, no exception shall be allowed for subsequently acquired land.

All in favour? Opposed?

Motion agreed to.

Ms Gigantes: Mr Chair, next is page 16, under the title "Section 27, Confidential cabinet documents."

The Chair: Ms Gigantes moves that we provide for access by the commissioner where necessary.

Where necessary?

Ms Gigantes: Yes, where he has a requirement to look at the materials that are related to what he is reporting on.

The Chair: And he would determine that necessity?

Ms Gigantes: I do not think the researcher will have a problem with this, Mr Chair.

The Chair: Okay, thank you. Discussion?

Mr Sorbara: This is one of those cases where the dissenting report is going to be the one that has historical value—

Ms Gigantes: Are we ready for the question, Mr Chair?

The Chair: Further discussion? All in favour? Opposed?

Motion agreed to.

Ms Gigantes: Mr Chair, if I might, there was a question about duplication.

Interjection.

The Chair: Mr Sorbara, please. Ms Gigantes—

Ms Gigantes: There was a question earlier.

Mr Sorbara: Just hold on one second. You interrupted me.

The Chair: You did not have the floor, sir.

Mr Sorbara: You have no right whatever—

Ms Gigantes: Mr Chair, if I might, I feel it would be helpful to the researcher, and perhaps to other members of this committee, to explain that, where motions which we have just passed appear redundant, because we have said that we were moving the conflict-of-interest guidelines into the Members' Conflict of Interest Act, the question we were dealing with there, primarily, was whether we should in fact use the guidelines as a basis for amendment to the act, or whether they should simply remain outside legislation and be used as guidelines apart from legislation—if that is helpful to our researcher.

The Chair: Okay. Further discussion?

Mr Sorbara: Just a second, is there a motion on the floor?

The Chair: No, there is not.

Mr Sorbara: Well, what is the discussion?

Ms Gigantes: There was no discussion. It was a point of information.

Mr Sorbara: I will move a motion then, if I might, in conjunction with our work on these guidelines.

The Chair: Mr Sorbara moves that the committee invite the minister responsible for women's issues and the Minister of Northern Development to come before this committee and testify as to the circumstances leading up to their breach of the guidelines as they presently exist.

Mr Harnick: Can I make an amendment to that motion? May I add that we request that the Premier come and elaborate generally on the issue of the conflict guidelines and specifically on the incident relating to those two ministers.

Mr Sorbara: In conjunction with my motion, I certainly would accept the friendly amendment from my friend the member for Willowdale so that my motion will read: "I move that in conjunction with the preparation of this report and the dissent contemplated thereunder, the committee invite the Premier, the minister responsible for women's issues and the Minister of Northern Development and government House leader to appear before this committee."

I have some comments to make on the motion I am moving. I would begin by simply saying to you that today is a rather unusual day, where we have completed all the government motions on the report and we now have authorization to proceed to the writing of the report. Nevertheless, this issue has so gripped us and the province that at one and the same time we are debating in this committee the conduct of ministers—we have a former minister on the committee—just as I speak right now, the member for Scarborough North is speaking on a want of confidence motion in the House; soon we will all be going up to vote on it. It just indicates how dreadful things have become.

I do not think I want to go through the list again of the ministers who have gotten into trouble in this government, but if you go right back to the time when we were just about to adjourn for the end of the fall sitting, there were two ministers—

Interjection.

Mr Sorbara: No, I am not going to finish today, but we can vote on this Monday—unless you want to comment on it. Do you want to comment on this motion?

Mr Fletcher: Let's vote on this on Monday.

Mr Sorbara: That would be all right. You may want to have something to say and you may want to support it.

Mr Fletcher: I have nothing to say.

The Chair: Are you yielding the floor to Mr Fletcher?

Mr Sorbara: No, I am not. I am remarking that without even thinking about it, the member for Guelph says, "Oh, no, we wouldn't want to do that." The standards of

this government are even lower than the standards of the Mulroney government in Ottawa. Mulroney conceded that the matter of Al-Mashat had to go before a committee.

Mr Harnick: At least they had a committee in Ottawa. You guys were scared to send the Farnan thing out to a committee.

Mr Sorbara: I am not surprised that the member for Guelph was interjecting that he would not be supportive of the motion. But I just make the comparison that in Ottawa, when there were some serious allegations, at least the government conceded that it should go before a committee for a while. Here, we cannot get any real opportunity to do the kind of investigative analysis we used to be able to do.

Mr Fletcher: I might be able to support this on Monday.

Mr Sorbara: In deference to my good friend the member for Guelph, I will move that we adjourn this discussion in consideration of the motion until Monday, so Monday we can take up the discussion of this matter. I will call for a 20-minute bell.

The Chair: Before we do that, could I remind the members of the subcommittee that we should be having a meeting at 3:30 in the west lobby.

Mr Sorbara: On Thursday.

The Chair: On Thursday at 3:30.

Mr Sorbara: I move adjournment of the debate.

The Chair: We have a motion to adjourn and a 20-minute bell. We are adjourned until Monday.

The committee adjourned at 1745.

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Chair: Drummond White
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Monday 24 June 1991

The committee met at 1549 in room 228.

CONFLICT-OF-INTEREST GUIDELINES

The Chair: We have a couple of items of business to deal with. Obviously there is Ms Swift's compilation or draft report, which has been circulated, and I am sure that today we will enter into a discussion of that report and how it should be presented. First we have Mr Sorbara, who had a motion and I believe had the floor when last we spoke, and also, of course, we have the very tentative schedule for our hearings this summer.

Mr Sorbara: I hope to keep my remarks on this motion as brief as possible under the circumstances. But just for the sake of reminding the committee members what the substance of the motion was, it was a motion which would have this committee ask for the authority from the Legislature to call witnesses before it, including the Minister without Portfolio responsible for women's issues and the Minister of Northern Development, and to question them, and hopefully their officials, concerning the breaches of the conflict-of-interest guidelines that we have been discussing over the past several months.

Why would we want to do that? I do not suspect this motion is going to succeed; I think the government members have already made up their minds to vote against this motion. They do not want to have this matter discussed further in a public forum. I think that is terribly unfortunate. I think it is regrettable. It says to me that the standards of this government are even lower than the standards of the federal government in Ottawa, the government of Brian Mulroney.

You will recall, and I mentioned this in my remarks the last time we met, that faced with some question about the immigration of the former ambassador of the Republic of Iraq to Canada, Mohammed Mashat, Brian Mulroney, the Prime Minister of this country, did the right thing. He said, "Well, let's have a parliamentary committee look into it." Members of the government were called before that committee and ministers were called before that committee. The committee did not come to an agreement on a recommendation back to the federal House of Commons, but at least it had an opportunity to pursue some investigation.

Mr Fletcher: Go join Brian.

Mr Sorbara: I am sorry? What did my friend from Guelph say? I think it is rather relevant what he said.

In any event, what we experienced in the Legislature—I guess almost two weeks ago—is two ministers publicly submitting their resignation to the Premier because of clear violations of the conflict-of-interest guidelines, not only the Premier's conflict-of-interest guidelines but, as the Premier acknowledged himself when he accepted those resignations, guidelines that have really guided the conduct of ministers in this Legislature for many, many years.

In my remarks the other day I mentioned that it would be of interest for this committee to know what investigations the Premier made during the time at around 1:30 in the afternoon, when he accepted at least the resignation of the minister responsible for women's issues, and at 5:15, when he decided that he would change his mind and decline to accept those resignations. I think it is terribly important to find out.

The last time we met, when I mentioned this matter, somebody interjected. I think it was Mrs Mathysen and I think it was Mr Morrow as well who mentioned the name of Bob Nixon. "Well, Bob Nixon said it was all right," was the suggestion by way of interjection.

Let me tell you what I think the Premier should have done at 5:15 on that afternoon. I think what the Premier should have said, having reflected, as indeed he did, is as follows: "This afternoon in the Legislature I accepted publicly the resignation of the minister responsible for women's issues and I did that following her submission of a letter of resignation as a result of a letter she wrote to the College of Physicians and Surgeons in respect of a quasi-judicial matter before it. I reiterate to you now," he should have said to the press, "my determination to accept that resignation. I am also announcing that I accept the resignation of the Minister of Northern Development for the very same reasons which force me, unfortunately, to accept the letter of resignation of the minister responsible for women's issues."

Then he should have said, "I do this notwithstanding the very comforting interjection of the Leader of the Opposition, the member for Brant-Haldimand, who for a moment during question period set aside the politics of the matter and the justice of the matter and, in a moment of sheer compassion for two very competent ministers, suggested I change my mind. I understand that compassion," he should have said. "I too have that compassion." He should have praised the ministers for the good work they had done, for they are both very competent in their jobs. The justice of the matter, however, should have required the Premier to accept the resignation of both of these ministers, just as he was required to accept the resignation of the member for Ottawa Centre, the former Minister of Health in the government.

What is so very troubling, I tell you, Mr Vice-Chairman and members of this committee, is not only that the Premier changed his mind, did a classic flip-flop—that was regrettable, unfortunate, but sometimes we do change our minds and sometimes a flip-flop is appropriate. That was regrettable, certainly, but what was more regrettable, and I think rather distasteful, was his reference to Bob Nixon when he did that, encouraging the notion that he had been given leave to change his mind by the authority vested in the Leader of the Opposition. That I found distasteful.

But what are troubling and of grave concern, not to those of us who are politicians but to anyone who is concerned about standards in our society, are the reasons he gave for changing his mind. I am supported in this view by a column written this very weekend by the Toronto Star Queen's Park columnist, Thomas Walkom. I invite any of you who are interested to have a look at the column Walkom wrote. I am not going to bother to quote from it, but he points out the three matters the Premier referred to when the Premier suggested that he was acting appropriately in changing his mind and getting involved in a flip-flop.

First of all he said, "The intentions of the two ministers were very good, and the cause that they were supporting was very good." The Bob Rae we all knew and loved as Leader of the Opposition before the election of 1990 would never have said that. In fact, he would have said the very opposite: that it does not matter whether or not the intentions were good. It does not matter if Joan Smith, for example, was going to the police station because of a clear, compassionate intention just to help the son of a neighbour. The first thing he said was that their intentions were good and it was a good cause.

"But the public interest," he said second, "was not harmed. There was no negative impact on the public interest. There was no breach of the public trust." One wonders about that, because it puts the Premier in the place of defining what is and is not in the public interest. He will not let us as a committee discuss that. You will vote against this motion which will establish conclusively that the orders of the Premier are to shut down all discussion of this. I invite you to do otherwise. I think you are probably going to vote against this motion. But the second thing he said was that the public interest was not harmed, in his view. To change the standards at the snap of a finger, at the flip of a flop—does that not at least affect the public interest, and I say affect negatively the public interest, particularly when the flip-flop is at the instance and instigation of the very man who used to be the Canadian first-choice crusader on the issue of conflict of interest and ministerial accountability? Who is he to say that the public interest has not been impacted negatively? I say it has, and for that very reason he ought not to have changed his mind.

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Finally, the Premier said it was okay and he was not going to accept the resignations of the ministers, because after all, what they did did not further their private interests. They did not profit from it. Well, heavens, if we now need clear evidence of personal profit before a minister steps down, having tried to interfere with the administration of justice, we have really gone downhill in Ontario.

Did Jean Charest personally profit where, in humiliation, he had to step down? Sure, the Prime Minister of Canada said: "This is a great politician. I have a lot of faith in Jean Charest. I think some day he's going to be back in cabinet and he's going to do very well. Maybe even he'll be Prime Minister some day. He's a great politician, but he must step down. Our system demands it." Jean Charest did not personally profit. He did not personally benefit. Is that now the standard, that we have to show money in the pocket of the minister or some other personal, private gain

on the part of the minister before there is ministerial accountability and responsibility?

We have had Tory ministers step down because they breached the rule about interfering with the administration of justice. They did not personally profit. I do not want to go over the names, but those of you who know anything about the history of this place know how many Tory ministers had to step down.

Certainly in the government that I was a part of we had ministers who, at the insistence of Bob Rae, now the Premier of this province, had to step down. Do you remember his words concerning Joan Smith? He said, "I want her out." Not because she personally profited. Let's go over what Joan Smith did. She got a phone call late at night. The person at the other end of the phone suggested that the son of a neighbour was being assaulted by police officers at the police station in Lucan. It was about 1 o'clock in the morning. She got dressed, she went down to the police station, she made an inquiry, she determined that no such thing was happening, she confirmed that and she went home.

When Bob Rae said, "I want her out," he did not say, "because the public interest has been negatively impacted," or that Joan Smith received a private benefit by way of going to the police station or that somehow the cause was unjust. None of those standards did he apply. He said, "This is very tough stuff. I want her out," and she left and she never returned.

We had thought the appropriate thing was that the Minister of Northern Development and the Minister without Portfolio responsible for women's issues spend some time outside of cabinet. We would fully respect the right of the Premier to bring those two competent ministers into cabinet after a specific period of time, maybe even in September before the start of the next session of Parliament, maybe even back into the very portfolios they held before then. What is just so difficult to accept is that suddenly, in the case of two ministers, the guidelines are thrown out the door. The Premier says, "Well, there's nothing in the guidelines that says the ministers have to resign." I could never hear him saying that in opposition, but he said: "There's nothing that says they have to resign or that I have to accept their resignations. I can do whatever I want. They haven't benefited personally. There's no money in their pockets. Their intentions were good. The public trust, the public interest, has not been violated."

Why did he not apply those standards in the guidelines? Why do we not see those words in these very guidelines that you and I and the rest of us are considering? He does not say that. He does not say that ministerial responsibility will be determined based on these three criteria. Why is that not in the guidelines? Why were those criteria not applied to Evelyn Gigantes, the member for Ottawa Centre, or to poor Peter Kormos, the member for Welland-Thorold? We still have not figured out what he did wrong, except perhaps to disagree with the Premier and a majority in cabinet on automobile insurance. We suspect—in fact, it is common knowledge—that Mr Kormos was perhaps the only real crusader who wanted the New Democratic Party to keep its promise in respect of automobile insurance.

Why not those three guidelines about personally profiting and the public trust and the public interest and the bona fides of the minister? Why were those guidelines not applied to the ministers who have resigned? What about poor old Mike Farnan, the Solicitor General? Why in the world did Farnan not at least offer his resignation and allow the Premier to make a judgement? Why is it that in each case a completely different rule book is governing the matter? That, for us, is what makes the deliberations we have here in this committee so ludicrous. Here we are given a set of guidelines and asked to deliberate on it and make recommendations, and the Premier said that as soon as he tabled the guidelines they would govern his conduct, yet in each case we have a completely different rule book applying to the matters at hand.

I would like to know more about this. If we are really going to respond substantively to the Premier and the Legislature on what are useful guidelines, I would like to know more. I would like to hear from more witnesses. I would like to ask the Premier what inquiries he made between 1:30 on the day those resignations from those two ministers were submitted and 5:15 when he changed his mind and said that Bob Nixon said it was okay. I would like to know more from the Minister without Portfolio responsible for women's issues and her political staff and the bureaucrats in the Ontario Women's Directorate about what advice was and was not given to the minister in respect of the writing of that letter.

As I said the other day, I have been there as a minister and I know that, in matters like that, the activities of the minister are known to the bureaucrats and the bureaucrats generally give advice on the advisability of writing letters. I would like to know whether or not the minister received any advice. I am just dumbfounded that the government members on this committee do not want to know that and do not want to share that with the public. I suspect the only reason why they do not want to know is because it will prove somewhat embarrassing to the minister and somewhat embarrassing to the Premier. But I would like to know whether the Premier at least talked to civil servants in the Ontario Women's Directorate before he changed his mind.

In regard to the Minister of Northern Development, the inquiries I would want to make are fewer, because the letter came from the constituency office. We all have constituency offices and we know that those inquiries and the determination to write or not to write arise differently. People generally come to your office and say, "Would you please support me in this?" Sometimes, in response to that, you just say to your assistant, "Yes, well, let's do that and here's a draft of a letter that I want to sign," and that is the end of it. I do not suspect the Minister of Northern Development consulted with her bureaucrats or her political assistants in the ministry, her political staffers, before she wrote that letter.

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My motion is all about finding out what happened and who advised whom on these matters. If the government members really want to be doing their jobs on a committee that purports to be concerned with the administration of justice, they will support this motion. I do not propose that

we go into months and months of hearing. I propose that we simply set aside four or five days some time over the next while, and call these ministers and call their senior officials and their senior political staff to get to the bottom of this.

Everyone thinks that this is okay now, because there are no more questions being asked in the Legislature and because the Premier has had his say. I want to tell you that this is like a little dose of poison. For the Premier to change the guidelines, for the Premier to set out three new criteria to determine whether or not a resignation will be accepted or rejected, is simply unacceptable. It simply flies in the face of every standard that has governed ministerial conduct for years and years in this province, in this government, and in this Legislature.

I think that before we give our tacit support to that change we ought to do a little investigation here ourselves. Before we rubber-stamp the conduct of the Premier and his ministers in this matter we ought to make our own independent parliamentary investigations as independently elected MPPs responsible primarily to our constituents, not to our leaders and not to our whips.

So, sir, I ask you and the other members of this committee to support this motion, vote in favour of it, and give us an opportunity to make those inquiries.

The Vice-Chair: All in favour of Greg Sorbara's motion? Opposed?

Motion negatived.

Mr Sorbara: Surprise, surprise.

The Chair: We are now moving on to the finalization of the committee report on conflict of interest. Are there any comments on the report as presented to us?

Mr Morrow: I would just like to congratulate Susan on a job well done and thank her very much for presenting such a fine report. Thank you very much, Susan.

Mr Sorbara: In the same vein, I think Susan Swift has worked under very difficult circumstances in preparing the commentary on the report and of course the recommendations as well. Our view is that the commentary reflects in general terms the nature of the discussion. As you know, we are not supporting most of the substantive recommendations in the report and we will be submitting dissenting views on most of the substantive recommendations. Notwithstanding that, I am grateful and my colleagues are grateful for the work that has been done here on the report, and we appreciate that work, particularly under circumstances that I would describe as less than ideal.

Mr Harnick: I, too, would like to say that we should all be indebted to Susan Swift for the work she has done under difficult circumstances. I have read most of the report. I received it only a very short time ago. I wish to restate again that it is regrettable we never had the opportunity, because the committee did not want to proceed in this way, to review the letter of the Premier, which was really the basis and background for many of the items that found their way into the guidelines. We never had the opportunity, unfortunately again, because the majority on the committee did not want to review the amendment to the guidelines

that the Premier released in February, not publicly, but which subsequently came to light in a public way.

Unfortunately, we never even opened the Members' Conflict of Interest Act. That, to me, makes this whole exercise very suspicious. We never opened that act. We never considered a single, solitary amendment as suggested by the conflict of interest commissioner, although he gave us his proposed amendments for discussion purposes, which this committee—and I am talking about the majority members on it—never permitted the opportunity—

Interjection.

Mr Harnick: I am going to talk about that in a minute, Ms Gigantes.

The committee never so much as opened the conflict-of-interest act. They never so much as commented on Justice Evans's proposed amendments to that act. In fact, when I read this report, I find things in it that I do not believe were ever discussed at this committee, and I paid close attention.

I refer members of the committee to page 6, where it states:

"Specific recommendations were made to the committee concerning the meaning of terms such as 'undue hardship,' 'the appearance of a conflict' and 'business interests.' It was suggested that the section as a whole is vague and meaningless because these terms are too subjective.

"However, the committee believes these terms as used in the proposed guidelines will prove useful to the judges to be made under the guidelines."

I cannot conceive of how those terms can prove to be useful if the suggestions were that we did not know what those terms meant. I think this section, under section 15 on page 6, is reflective of the quality of the work that was done by this committee. The quality, I would submit, is very poor and did not answer the questions that begged to be answered. We did not make any attempt to improve upon this legislation in anticipation of the difficulty it would cause.

On page 7 it states, "who should be the final arbiter of conflict-of-interest matters; whether the courts should be involved in these determinations; and whether citizens should have any role in the process"—we never discussed any of this. These questions were just so obvious and a discussion of them was just begging to be had, but we never had that discussion. We never so much as discussed whether courts should or should not be involved.

I think it is interesting. When you take a look at page 8, the second-last paragraph states:

"The use of the court system in the determination of conflict-of-interest issues was suggested by one witness,"—I might add that although not named, that one witness was Premier Bob Rae—"but rejected by another who argued that there is no expeditious way of having such issues resolved through the court system." That other witness was Mr Justice Evans.

What that paragraph points out is the dilemma about where the final arbitration, where the right of appeal, should go. Should there be a right of appeal? The Premier believed we should have access to the courts. The conflict of interest commissioner said that access to the courts

would ruin the conflict-of-interest proceedings because it would take such a long time that issues involving human beings who were caught in conflict-of-interest matters could not be resolved expeditiously. People would be left in limbo.

This committee never found the time to discuss these very important issues. It is regrettable that we did not do that, because quite apart from our philosophical, political differences, these questions could be answered without resort to political beliefs. They are questions and concepts that, once the committee decided that the guidelines should become law, we should have been going ahead and trying to wrestle with. But the committee found it did not have the time. Even now the committee is really not very interested in any meaningful discussion about this matter.

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I would not hesitate to make the statement that of all the members on this committee, I would bet not a person on the government side has really read this final report. Certainly if they have read it, they have read it in a cursory manner, without regard to any of the issues which we were asked by the Premier to discuss but never got around to. That is the reason my party will be preparing a dissenting report, because we believe some of these matters are fundamental to the issue of conflict of interest. They should be discussed. They should have been discussed by the committee, but the committee was too busy. All they were prepared to do was make motions to speed this process along and invoke closure and make further motions: "Just dealing with section 15, we are for it, we are against it, all in favour." That was the extent of the discussion we had.

I appreciate that the remarks I am making are not going to win any favours from anybody, but we had a mandate to do a job and we have not done that job. Because of that, the majority members on this committee are giving to the Legislature a report that is superficial. It takes a cursory look at the conflict-of-interest guidelines, and interestingly enough, it identifies all of the issues that are important. It then refuses to take the time to discuss them and analyse them and put them into some perspective, and it does not try to make them better.

These guidelines were given to us as guidelines, with a mandate to review them and to make them better. We have not made a single attempt to make these guidelines better. We have merely gone through the guidelines and said, "All in favour," and six or seven government members would put up their hands and that section would be passed and we would move on to the next section. I applaud the government members because they took their orders from whoever was giving the orders and they put not a single iota of work, of commitment and imagination, into making these guidelines better than what was given to us.

I think the Premier will be disappointed when he sees that all he receives back is a rubber stamp of guidelines that he himself knows are far from perfect and that he himself knows should have been discussed at length, with attempts made to make these guidelines better so that if they are ever enacted they will work. But the committee decided it did not want to do that. They just decided to ram these guidelines through as they were presented. You can

all be satisfied that you get an A for your effort. You did exactly as you were told by someone, I gather, and you just rammed these things through holus-bolus, without a single change suggested in one single section of guidelines, which I think were some 25 sections in all.

It is interesting in appendix A that we have the commissioner's proposed amendments to sections 12 and 13 of the members' conflict-of-interest guidelines. We never discussed sections 12 or 13. I do not know why they found their way into appendix A, but we never so much as opened the Members' Conflict of Interest Act in the whole time this committee met.

I might add as well that we had all kinds of consternation on the government side about how long we had spent on these guidelines. Up until 7 May, which was approximately the time that the bells in this place started to ring for budget purposes, we had met exactly five times to hear witnesses; five times we sat down and listened to witnesses. Then the government members tried to tell us how many days we had spent deliberating on a section-by-section basis. The fact is that we never deliberated on a section-by-section basis. So if there is an attempt here by the government members to say that time was being wasted, it was not. We met five times, we heard evidence from people on those five occasions, and then we did not meet for one month. We then spoke for a couple of weeks about this matter and rammed the sections through as they were written.

Certainly I do not take any satisfaction in the job that was done here. The job was a poor job. You have not answered the mandate of your Premier in providing him with any meaningful analysis and critical examination of the conflict-of-interest guidelines.

Mr Carr: I was just going to say how the mood of this committee changed. Back when the Premier came in and the Treasurer and the Chairman of Management Board and the minister responsible for native affairs, during that period of time there was the—

The Chair: I am having difficulty hearing Mr Carr with the other conversations.

Mr Sorbara: Are we allowed to turn that television off? Those who want to attend the House should attend the House. Those who want to attend this committee should attend this committee.

Mr Harnick: I note for the record that four out of six members of the government are sitting here watching television rather than—

The Chair: Mr Harnick, you do not have the floor. Mr Carr has the floor.

Mr Harnick: Go ahead, Gary, you can say that. Say that four out of six are watching television, because that is indicative of the way they have approached the whole—

The Chair: Mr Carr.

Mr Carr: I was going to be insulted, but I noticed they had started before I started talking, so it is okay, but I see they have brought some attention back.

Mr Sorbara: If you just turn your back on the guy and watch television, why are you here?

The Chair: Could we allow Mr Carr to speak, please?

Mr Carr: As I was saying, the mood when we started this was much different for those who were here during that time.

Mr Sorbara: This government has become arrogant.

The Chair: Mr Carr, would you please speak, and Mr Sorbara, would you please allow Mr Carr to speak?

Mr Sorbara: Sorry, Gary.

Mr Carr: No, that is fine, go ahead.

During that period of time we had all the cabinet ministers coming in and at that time there had been no problems. None of the scandals had happened at that time.

I was one of the new members who actually believed the Premier when he said he wanted to work in a non-partisan way to improve it. Even as late as a week or so ago when he said, "I want to hear from the justice committee," anybody who had not been here, if you just had been watching question period, you would have said: "This guy is genuine. He really wants to get the input from the justice committee."

As a new member what I find a little bit—and I guess the word is insulting—is that you have a Premier who stands up and says that, yet I come into a committee meeting where I watch the government of the day trying to ram things through. So in question period he stands up in answer to a question saying: "I want to hear from the justice committee. They are looking at it and I want to hear and have good input." Anybody who would turn that on would say: "Isn't this terrific? We are having the first input. This is great." Not more than two hours later, I come to a committee where closure is invoked and they are saying: "Whip it through. No input from anybody. We're not going to do this. We just want to get it all behind us. There are too many scandals. When we talk about conflict of interest there are too many opportunities for the opposition to bring up all the people who have left and all the controversy. So we want to get it swept behind us."

I would just like to go on the record as saying that, as you are aware, we will be submitting a report from our caucus on what we believe needs to be done. Of course, it will not matter to the government of the day. As the Premier said, he is the one who is ultimately going to be judged, and believes that to be the way it should be.

I say to the people out there, the worst part is that you hear the Premier saying one thing in question period at 2 o'clock, and then see another thing happen less than two hours later, at 4 o'clock, in reply to questions, and I believe it was from Mr Sorbara—

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Mr Mills: Charles is watching TV now.

Mr Harnick: I was looking right at Gary's face.

Mr Carr: —saying: "I want input. I want to hear from the justice committee." The fact of the matter is, they did not. They wanted to push this through to avoid the controversies, not to do a good job with the conflict, but for one reason and one reason only—to avoid the political heat that discussing this would represent. Not to get in the best conflict guidelines for the people of Ontario; just to avoid the political heat.

As we sit here today, there is a tremendous amount of political heat, listening to some of the opposition talk about some of the scandals. The government is not going to fall as a result of it, but instead of trying to get the best possible conflict-of-interest guidelines, they try to push things through. The motions that were presented were done to speed things up. As my colleague Mr Harnick said, we did not spend a lot of time on this. We heard submissions from the various cabinet people, and in terms of dates, yes, it started a long time ago, but during that time we had other business come up, and we did not do justice to this important issue.

The Premier of this province said in the throne speech that he wanted to bring integrity back. Quite frankly, I think if he had not said that and then this had happened, there would not be too much of a problem out there. But he tried to trumpet out these guidelines when he thought it was politically correct to do so. As soon as he got burned—and I guess it was not only once that he got burned; he was getting burned two and three and four and five times. What is it now?

Mr Harnick: We are up to 10.

Mr Carr: Ten. We have had more scandals in this government than we have had bills passed under the first government. We have had more scandals and resignations and conflicts than we have had bills passed. We have had more times when we have dealt with scandals than times when we have had the Lieutenant Governor come in and pass bills.

We have a Premier of the day who will say one thing to try to get political mileage, and then when the public is not looking, when the press is not around, all of a sudden the backroom people, the people on this committee, are going to attempt to push things through. I guess I was one of the naïve people who believed that what you do on these committees counts. Well, it doesn't.

This was done for political reasons, not to try to improve guidelines for the people of Ontario, to bring integrity back. It was done for one reason: to avoid political heat, to sweep it under, to get this passed, to get this through so that we do not have to take any more heat. Let us get the word "conflict" out of the public's mind over the next little while. That is the only reason this was done.

I guess a lot of people originally said that one of the things about the Premier was that he was going to try to change things, but I will tell you, nothing has changed. These types of tactics are probably what has gone on in the past. I was not here during that time, but I was one of the people who honestly and truly thought one of the differences—in spite of the fact that we differ on ideology and in which direction we are going to take the province—was that he really meant it when he said he was going to attempt to be different and have more involvement in committees.

The fact is, there is no change. Quite frankly, to sit here and have to go through this and then have the Premier of the province stand up and say, "I want input," and to know that that is not the case just makes me a little more cynical about this whole process.

I wanted to go on record with that, Mr Chair, and say that we will be bringing in a report that hopefully will attempt to do justice. More than anything else, I resent the fact that we are trying to sweep this under the rug for no other reason than political purposes.

The Chair: Any further discussion on this motion?

Seeing no indication, shall the report be presented to the House for adoption of its recommendations?

Mr Sorbara: When the dissent is ready.

The Chair: We have that agreement already. Agreed?

Motion agreed to.

The Chair: It seems to be the will of the committee that it be presented—with additional reports, yes.

Ms Gigantes: Mr Chair, just before we leave this matter, if I could, on a point of personal privilege, draw to the attention of members opposite the fact that the resignation from my job as Minister of Health had nothing to do with conflict of interest whatsoever. It was the failure to responsibly carry out my ministerial duties.

Further, I know some of the members opposite are young, but in fact there is a difference between a scandal and a question of conflict of interest, which I believe most people in Ontario can judge to be serious or not serious, in the cases, for example, of the Minister of Northern Affairs and the House leader, and the Minister without Portfolio responsible for women's issues. For those terms to be used as loosely as they have been here, and in particular in connection with my own case, I would like to be on the record on that matter.

Mr Sorbara: On the point of privilege—

The Chair: It is not strictly speaking a point of privilege, so I do not think it is debatable.

Can we move on to the next point. Shall the committee ask for a comprehensive response from the Premier's office in regard to our submission?

Mr Harnick: No, our submissions.

The Chair: When it is presented to the House pursuant to standing order 36(d).

Mr Sorbara: I would like to speak to that, if I could for a moment, please. In speaking to the question of whether we should ask for a comprehensive reply from the Premier, I guess my own vote would be that we do not do that. I would like to basically end this charade on conflict-of-interest guidelines. This is one case in which I hope the report, along with the dissents, are submitted and then for ever forgotten, because we have not furthered the wellbeing of the province through this discussion.

I am reminded of that most recently in the point of personal privilege raised by my friend the member for Ottawa Centre, where she took offence at something or other.

The Chair: However, it was not a point of privilege.

Mr Sorbara: I am speaking on your motion, sir. I am speaking on the issue that you raised.

The Chair: Please do.

Mr Sorbara: In doing so, I want to say to my friend the member for Ottawa Centre that I thought she, as a minister, was doing a very competent job as Minister of Health. In

fact, to the extent that she was responsible for the negotiations with—

Ms Gigantes: Mr Chair, this is totally out of order, if I may. There is no reason for him to be going on. I raised a point that related personally to me and I pointed out to members opposite it had nothing to do with conflict of interest. Now for him to engage in debate of this nature is ludicrous.

The Chair: Mr Sorbara, please return to the question.

Mr Sorbara: Each of the other ministers who has been the subject of some sort of inquiry has basically performed competently, and what we are questioning here is not the—I would never use the word “scandal,” because I do not think they are scandals. I think the issue is the conduct of the Premier on these matters. We are basically reporting back to the Premier.

I have the highest of regard, for example, for the minister responsible for women’s issues. In 1987 she ran in the riding right next door to my own, and she was a very competent candidate.

Ms Gigantes: Mr Chair, does this have anything to do with the question which you raised?

Mr Sorbara: To answer that, I am just using this information as a basis for my reasoning that we not ask for a comprehensive response.

We use the phrase “conflict of interest” now not simply to refer to a conflict of interest narrowly defined but to generally refer to standards that apply to ministers and their behaviour, their mistakes, their faults, their shortcomings and how the public deals with those, and now how the government deals with those.

I am not interested in a comprehensive response from the Premier. I think all of us make our mistakes and we pay the penalty. The Premier has shown, I think, particularly over the past couple of weeks, that he does not give a darn about what is in the guidelines, about what this committee thinks, about what the province thinks. He will set his standards as the moment dictates. Someone referred to situational ethics, and I think that is what we are getting from the Premier.

So I hope he does not respond. I hope the report is submitted and it gets chucked in the garbage, because the Premier will do what he wants to do. People will raise questions about the conduct of ministers. It happens in every government and it is a regular part of life at Queen’s Park or any other provincial or national government. It is a reality. But what we have here is a Premier who said: “I don’t care about precedence, I don’t care about standards, I don’t care about history. I will make up my own mind as to when ministers have to obey guidelines and when they don’t.” So my vote is going to be not to ask the Premier for a comprehensive response; in fact, not to ask him for anything other than that the Legislature accept the report and not act on it further.

1640

Mr Harnick: I have to take issue with Mr Sorbara. I, in fact, would like a comprehensive response. Mr Sorbara predicates his not wanting a comprehensive response on the fact that he hopes the report and the dissents will be

chucked in the garbage and the issue forgotten. I hope that would happen too. I am not as optimistic as Mr Sorbara that it will happen. I suspect the Premier will go ahead and do whatever he wants, and he has made his intentions quite clear that he wants guidelines, he favours their becoming legislation, and I would be very interested in hearing his comprehensive response only because, as I said before, I believe he wanted more from us than we have given him in the report that is presently before us dated 20 June 1991.

In that I am not optimistic that he is going to throw this material in the garbage and in that he is going to proceed with conflict guidelines and in all likelihood make them law, I would like his comprehensive response, because I would like to have something in writing to hold him to what his beliefs really are. These guidelines were put out by the Premier and they have caused him no amount of consternation so far. Every time he elaborates, it becomes easier to determine what standards he is not going to uphold. So frankly I would like to see what his response is. I would like to see if he wanted something better than what we have given him and I would like to see how he intends, if he intends at all, to make these guidelines better than they were in light of the experience he has had with their usage. He certainly did not get any guidance in terms of altering those guidelines from this committee, and I would hope that he has obtained some guidance in the use of these guidelines in terms of the events over the last nine months, when several cabinet ministers have breached these guidelines and been caught in breach, yet there has been no enforcement.

I must differ with my friend Mr Sorbara. I think it would be useful to see what that comprehensive response is, only because I am not optimistic that this material will be thrown in the garbage.

Mr Morrow: Mr Chair, I am really inquisitive as to some matter. I sat with the members opposite last Thursday and this motion did not come forward. Could you possibly tell me where this motion came from?

Mr Harnick: It came from the Chairman.

Mr Morrow: I am not asking you, Mr Harnick. I am asking the Chair.

The Chair: The motion, Mr Morrow, is compulsory under 36(d), I believe it is, of the standing orders. It is a procedural issue and the clerk can clarify.

Clerk of the Committee: Just to clarify, section 36(d) says, “Within 120 calendar days of the presentation of the committee report...the government shall, upon the request of the committee, table a comprehensive response.” We are just trying to determine whether the committee is requesting that the government table a comprehensive response.

Ms Gigantes: I do not see any point in asking for a comprehensive response. I think that at this stage the government will decide what form the legislation will take and when it will be brought in and we will just proceed on that basis. I do not see any point in asking for a response.

The Chair: Any further discussion on this question? All in favour of the request being made for the government, in this case the Premier’s office, to prepare a comprehensive report within 120 days? All those opposed?

Motion negatived.

Mr Sorbara: You guys are opposed as well? At least ask for it, Evelyn.

SUBCOMMITTEE REPORT

The Chair: We now have in front of us the report from the subcommittee, which I will read into the record.

"Your subcommittee met on—"

Mr Sorbara: Dispense.

The Chair: No, we cannot.

"Your subcommittee met on Thursday 20 June 1991 and agreed to the following:

"1. As per the schedule agreed upon by the House leaders and the whips, the committee will hold public hearings on Bill 115 during the weeks of 29 July, 6 August, 12 August and 26 August.

"2. The committee will conduct clause-by-clause examination of Bill 115 during the week of 16 September 1991.

"3. Assuming proper accommodation and travel arrangements can be arranged, the committee will travel to the following locations: Thunder Bay, Sudbury, North Bay, Collingwood, Ottawa, Kingston, Peterborough, Windsor, London, Hamilton.

"4. Groups and individuals who request shall have their expenses paid to enable them to attend hearings in the closest centre."

"5. The committee will attempt to meet Mondays through Thursdays during the daytime only. Should it be necessary to schedule additional meetings, these meetings will be scheduled in the evenings before they will be scheduled on Fridays.

"6. An advertisement will run in every English daily and French weekly newspaper during the first week of July.

"7. Groups will be afforded one half hour for their presentations, and individuals, 15 minutes.

"8. Committee hearings will begin exactly at the time scheduled, whether or not there is representation from all three parties.

"9. The committee will commence consideration of Bills 74, 108, 109 and 110 following Bill 115. The committee will advertise for the above-mentioned bills early in July to afford groups substantive notice."

Mr Sorbara: Mr Chairman, I would strike out the word "exactly" in 8 if I were you. Does the committee hearing not happen if for some reason we are two minutes late? Is it a nullity? Is it void for want of that precision? If you just say "will begin at the time scheduled," then you avoid that question. If it is two minutes over, some weirdo like the member for Willowdale may say, "My God, it is two minutes beyond so these committee hearings can't take place."

The Chair: With the committee's agreement, we can strike out the word "exactly."

Agreed to.

The Chair: However, the intent is that the committee will start on time, ie 9 o'clock or 10 o'clock or whatever, and not drift on until 10 minutes past awaiting the attendance of one of the other parties who may not be present.

1650

Mr Harnick: Dealing with paragraph 3, the list of places that the committee intends to be travelling to, it strikes me that only one of those places is really a border city, and that is the city of Windsor.

Ms Gigantes: What about Ottawa?

Mr Harnick: Ottawa is a border city but not in the sense that it is on the Canada-US border. I suspect we should be going to places like Sault Ste Marie, like Cornwall, like St Catharines, because those places are relevant.

Mr Sorbara: Niagara Falls.

Mr Harnick: Niagara Falls as well. Those places are being racked with unemployment. One of the reasons that they are being racked with unemployment is alleged to be the laws on Sunday shopping that presently exist. Is there some reason that the government, which prevails in these things, has not seen fit to include some of the other relevant cities?

I can appreciate that it is very nice to go to Kingston in the summertime when all the boats are out sailing, and we can go to Collingwood because it is a lovely summer resort and people are up there at their cottages, but these other places are crying out to be heard. I cannot believe, if this is going to be a meaningful exercise, you can avoid going to these places. It is obvious that Collingwood will be a tourist attraction and it will fall under the exemption. Those places will have the opportunity to be open. But what about some of the other places? What about Sault Ste Marie, where there are businesses that cannot compete?

On a person's leisure day, which is Sunday, when people are not at work—if they have a job—they decide to go across the border to do their shopping. Surely those places should have the opportunity to have the committee come and hear representations if this is going to be a meaningful exercise. I am sure there are many other places that should be heard as well.

St Catharines is not on here. One day I was sitting in line on my way to the United States and I rolled my window down and spoke to the driver beside me, who said he was from St Catharines. He indicated to me—and this was at a time when no grocery stores or gas stations were allowed to be open in St Catharines—that he would go down to Buffalo every single weekend because it was cheaper to fill up his tank and it was cheaper to buy his groceries, and all of his stores were closed at any rate. If that is what is happening and Sunday shopping is impacting on that particular aspect of a community's life, surely we should be going to those communities and speaking to those people.

I do not know how you came up with this list. There is nothing wrong with this list, but there should be additional places added that are places of great importance in the Sunday shopping debate. I think this committee should reconsider where it wishes to be going.

The Chair: I think the issue you bring up, Mr Harnick, is a very valid one. However, I think you also are aware that on the subcommittee, every party is equally represented.

Mr Morrow: I am sure, with Mr Harnick's indulgence—had he been at the subcommittee meeting last Thursday, most of these were agreed to. Also, if you look

at the situation, Bill 115 is not a cross-border shopping bill; it is a Sunday shopping bill. They are two distinct and separate issues.

Mr Sorbara: Keep telling them that.

Interjections.

The Chair: Mr Morrow has the floor.

Mr Morrow: We are also going, as I see reported here, to three border towns to actually hear what is being said. I reiterate that Bill 115 is Sunday shopping legislation and amendments to such. Nothing is over cross-border shopping.

Mr Sorbara: In effect, I agree with what Mr Harnick has said about the absence of important communities like Cornwall, Sault Ste Marie, Niagara Falls—

Mr Fletcher: Send it back to the subcommittee.

Mr Sorbara: I say to my friend from Guelph who says—

Ms Gigantes: Send it back.

Mr Fletcher: I am willing to send it back.

Interjection.

Mr Sorbara: The member for Ottawa Centre says, "Don't bitch; do something positive."

Ms Gigantes: Don't just bitch.

Mr Sorbara: Oh, she corrects me. She says, "You just bitch."

Ms Gigantes: No, I said, "Don't just bitch."

Mr Sorbara: Oh, I see: "Don't just bitch; do something positive." My difficulty with doing that—I have accepted this list of cities because the Vice-Chairman of this committee has told me in no uncertain terms, just before this meeting, that the government will under no circumstances accept that this committee goes to another border town like Sault Ste Marie or Niagara Falls, so there would be no purpose in sending it back to the subcommittee.

The government members have the majority. If they refuse to go to Niagara Falls or to Sault Ste Marie, so be it. Look, you won the election. You have the majority. You can make those sorts of decisions. I think, in the end, you will regret it.

Mr Morrow: Did you not agree to this just before?

Mr Sorbara: Yes, and I agreed to it—

Mr Morrow: So what is the problem now?

Mr Sorbara: Look, Mark. Do not mess around like that.

Mr Morrow: I am not messing around. You agreed to this just before.

Mr Sorbara: Yes, that is right, and I still agree—

Interjection: You agreed to it, Greg. Now what are you doing?

Mr Sorbara: I agreed to it. I agreed to it on the basis that you said to me, over in those chairs, that under no terms will the government allow this committee to go to another border town. So I agreed. I agreed that if that is what you are saying, then that is what you get.

Mr Morrow: You said this is fine.

Mr Sorbara: That is right. This is fine, and I accept this, and we will live with this, only because you have

said—if you want to move a motion that we go back into the subcommittee or change this, move a motion to amend this to add Niagara Falls or Sault Ste Marie, I tell you, I will support that.

Mr Harnick: Can I make such a motion?

The Chair: No, Mr Sorbara has the floor.

Interjection.

Mr Sorbara: No, I have the floor, Irene, if you will just—

Interjections.

Mr Sorbara: My friend Mr Harnick says while I have the floor, I should make the motion. I am not going to do that, but I invite him to do that, and I would support it.

I support this motion. We have negotiated it. It was negotiated on the basis that the government would not agree to go to any more border cities. You cannot hide that. You cannot pretend that we did not go to Niagara Falls because somehow the subcommittee did not want to. My God, we are going out into the community. When they write you from Niagara Falls and say, "Why aren't you coming here?" you cannot say, "Oh, well, the subcommittee, you know, and Sorbara, they agreed to it, so we didn't want to do it." Look, at least accept the decisions you make.

Interjection: The committee of the whole still has the opportunity—

The Chair: The committee of the whole does not speak; Mr Sorbara does. Mr Sorbara, you still have the floor. You can exercise your right to speak, please.

Interjections.

Mr Sorbara: I want to make the point, as clearly as I can, that you live with the decisions you make. Now, Mark, I say to you as Vice-Chairman, please do not try to pretend, as we avoid Sault Ste Marie and Cornwall and Niagara Falls, that somehow it was Liberal members or the Conservative members who did not want to go there. Those are the very places we want to go, and I said to our clerk—

Mr Morrow: Windsor, Kingston, Thunder Bay.

The Chair: Well, my friend, if you want to substitute Kingston for Niagara Falls and Sault Ste Marie for, I do not know, Collingwood or North Bay, that is great. Listen, please do not try to get involved in a charade now. Accept the fact that you do not want to bring this committee to Niagara Falls. I think we are going to have a motion here to add Niagara Falls and Sault Ste Marie and Cornwall to the list. And you know what? You are going to vote against it.

Mr Chiarelli: Open government.

Mr Sorbara: Or if you just get the floor and make remarks that the government has decided, in its wisdom, not to go to those communities, I accept that. Yes, Mark, you are right. I accept this list, because I can count, and I count over here five members who would like to go to those cities, and seven members who are going to prohibit it. Do not give me that nonsense that we are not going to Niagara Falls and we are not going to Cornwall and we are not going to Sault Ste Marie because somehow we agreed to it. That is scandalous; it is outrageous to suggest that in

this committee. That is the very thing that has poisoned the atmosphere of this committee. Look, you make a motion, my friend, substituting or including Niagara Falls, and you have my support.

1700

Interjection.

Mr Sorbara: And you still do have my support, but I will give you even more support if you amend it.

Mr Harnick: On a point of order, Mr Chair, and I think it is an important point of order: What has been said here is that there is an agreement on the table to go to these places. That agreement is an agreement of the subcommittee. The subcommittee brings that agreement to this whole committee and it is the whole committee that then has the opportunity to decide whether we do or do not accept what the subcommittee says.

I object to the fact that people are pointing the finger at me and saying I have agreed to these places. I was not at that subcommittee meeting. My colleague Mr Carr was. He did not agree to those cities. He was outvoted, and now one who was on that subcommittee, namely, the Vice-Chairman of this committee, is trying to tell us that because that was a decision made by the subcommittee that therefore the decision—

The Chair: Thank you, Mr Harnick.

Mr Harnick: I am not finished. I am speaking to a point of order and it is a valid point of order, and you as Chairman have no right to cut me off until I am finished.

The Chair: Yes I do, sir.

Mr Harnick: No, you do not. Not if my point of order is a valid point of order, which it is.

The Chair: Mr Harnick, you have made your point.

Mr Harnick: You have no right to interrupt me the way you have. If you want to throw me out, take your sword and throw me out.

The Chair: You have a right to put a point of order, and you did. It is acceptable. Your point of order is taken, sir. What we have is a subcommittee report which is fully debatable and amendable, as you suggested. The issue of whether you were there or not is inappropriate—

Mr Harnick: But as Chairman of this committee and as the person who makes the decisions, I would like you to put it on the record that—

Mr Fletcher: A five-minute recess, Mr Chair.

Mr Harnick: We are not having any recess. I would like you to put it on the record that we have no agreement of this committee as a whole. All we have is a recommendation from a subcommittee, not, as the Vice-Chairman states, that we have an agreement among everybody here and now we are trying to renege on it. That is not the case.

The Chair: That is exactly what a subcommittee report is. It is a recommendation from the subcommittee to the committee as a whole.

Mr Harnick: Maybe you better put it on the record so your Vice-Chairman understands what is going on, because it is clear that he does not.

The Chair: The procedural issue is very clear. You made it, sir. Thank you.

Are we still debating the acceptance of the report? I am sorry, Mr Sorbara, you actually have the floor. You were interrupted on a point of order.

Mr Sorbara: I do have the floor. I think probably—

Interjections.

Mr Sorbara: I am going to try and bring a bit of reasonableness to this discussion, although my first instinct is to simply allow this thing to degenerate in the same way in which our discussions on conflict of interest degenerated.

If we can just get the government members, through either the whip or the Vice-Chair, to acknowledge that this is the list of cities they are willing to go to, that is fine.

Interjection.

Mr Sorbara: Derek, you are playing a dangerous game. You are trying to suggest that somehow this is our agenda. It is not our agenda. Just acknowledge that it is—

Interjection.

Mr Sorbara: My friend, you are going to get motions to go to Sault Ste Marie and you are going to get 20-minute votes. What you are going to get as well are press releases sent out to Sault Ste Marie and Thunder Bay saying the government members have refused to allow the Sunday shopping committee to go to those towns. That is what you are asking for. On the other hand, you can forgo all that and simply acknowledge to us that you do not want to go to any more border towns.

Interjection.

Mr Sorbara: Mr Fletcher says it is the first he saw of this. I would love to hear him say that he is anxious to support a motion to go to Sault Ste Marie and go to Niagara Falls.

Mr Poirier: And Cornwall.

Mr Sorbara: And Cornwall, although I do not think we have to go to every border community. I would substitute Cornwall over Kingston.

If the government members come in here and say, "Look, this is all new. We're just talking here. This is our agenda," then we have to prove their mettle by way of votes.

If I could just know what the speakers' list is, I suspect—

The Chair: You are definitely on it, sir. You are speaking now. Mr Carr, Mrs Mathysen.

Mr Sorbara: Mr Carr is next. I expect Mr Carr will be moving a motion to substitute some cities for other cities.

I want to tell my friend the Vice-Chairman of the committee that I am prepared to support this subcommittee recommendation. I had a part in this subcommittee recommendation and I am willing to support it, but only on the basis that you not create the charade that the government would have been willing to go to Sault Ste Marie and Niagara Falls but for the will of the committee. Just admit that. Admit in this committee what you said to me over there, which is, "No other border towns."

Mr Morrow: What I said to you, Mr Sorbara—

Mr Sorbara: Look, you do not want to co-operate on this committee and call it like it is. That is too bad, because you are just going to get into more and more trouble. I will say that I will support this and I will consider any motions to amend this that are put before the committee. I am going to want time to consider it if amendments arise.

Mr Morrow: On a point of order, Mr Chair: Niagara Falls and whatever other border towns Mr Sorbara has named—

Mr Harnick: On a point of order: This has nothing to do with—

The Chair: Excuse me. I have not had an opportunity to hear his point of order.

Mr Morrow: People can come from these areas to where we are having the hearings.

Mr Harnick: This is an argument of substance.

The Chair: Mr Harnick, Mr Morrow had the floor. He has an opportunity to speak and for me to rule on that point of order, just as you had, sir. Mr Morrow, did you make your point?

Mr Morrow: I was making the point that people across this province in other areas do have a right to come to where we are having the hearings.

Mr Chiarelli: On a point of order, Mr Chairman: I want to apologize for being late. Would the Chairman please indicate to me the exact item that is on the floor now for discussion?

The Chair: The exact item is the subcommittee report.

Mr Chiarelli: Could you give me the wording that is on the floor? Is it a motion? Is it a discussion? What exactly is it we are debating?

The Chair: We actually have not a motion. You are quite right. There should be a motion to accept the subcommittee report. We are discussing the subcommittee report but there is no motion on the floor. You are procedurally quite right. There should be.

Mr Chiarelli: I was going to put an amendment to the motion, but there is no motion on the floor.

The Chair: Is it agreeable to the committee that we have a motion to accept the report, which could then be amended or whatever? Mr Carr, would you like to make that motion so we could properly discuss the report?

Mr Carr: I was just going to speak to what transpired. When the subcommittee met, we were going to go right from Ottawa to Peterborough, and it was myself who asked: "What about Cornwall? Wouldn't it be nice to go to Cornwall?" As part of a compromise, Kingston came into play.

In the subcommittee, they did not want Cornwall, the border town, all the things we heard about, so in the art of compromise, I said, "We'll make it Kingston to get regional representation so people could come in." When we went farther along, we hit Niagara Falls. I said, "What about Niagara Falls?" Border town. "No, we don't want that." Again, in the interest of compromise I said, "Why not St Catharines?"

There may be logistical reasons the clerk has done this, but North Bay got included. We talked about Sault Ste

Marie, and that depended on whether we could fly into Thunder Bay and get out. There were a lot of things that were changed.

When I left, however, we were going to have, as a compromise because they did not want to go to Niagara Falls, at least St Catharines in the Niagara region. We joked about the fact that we were going to be able to go to Mark's house for dinner. As I left, St Catharines was going to be in there to take in that region. We could not get down to Niagara Falls, the border community, so in the art of compromise we would get something in the St Catharines area.

That was on the table for everyone to know, that we did want to go to border towns, but for some reason, because of logistics—going to Thunder Bay would not allow us to go into Sault Ste Marie—going to Cornwall was suggested. We did get into that region with Kingston.

I wanted to clarify it, because the assumption was made that none of these spots were brought up. They were. Cornwall was brought up, Niagara Falls was brought up, Sault Ste Marie was brought up, and we ended up with this list. St Catharines got left off. I thought that was going to be in there. I understand there is some reason St Catharines was left off, maybe for logistics or whatever, but I did want to have something down in that area just to cover it.

Those were the understandings in the subcommittee. We were attempting to compromise, knowing the government did not want to go to border towns, but we did want to try to be fair so that if people in Niagara Falls did want to present, they would not have to go all the way to Toronto; they could make a compromise and go to St Catharines. I did want to get that on the record and lay out what transpired.

The Chair: For clarification of this issue, there were some changes from the discussion we had on Thursday. I am wondering if those parts could be clarified by the clerk.

Clerk of the Committee: The discussion we had included places that were subject to hotel accommodation and availability. There were some changes after the meeting. I spoke to one member of the subcommittee, left a message for another member of the subcommittee this morning and did not hear back, and spoke to another member of the subcommittee prior to the meeting. Generally, when there are changes I get all the members to sign off on the changes. That was not done, agreed upon, but that was part of the meeting and subsequent phone calls to subcommittee members after the meeting resulted in this schedule.

Mr Sorbara: Might I put a motion that we adjourn for 15 minutes to try and work this thing out without the shouting and screaming across the floor. Perhaps 10 minutes.

The Chair: Mr Carr can make that motion if he wishes to.

Mr Carr: I make the motion to adjourn for 15 minutes to discuss.

Motion agreed to.

The committee recessed at 1713.

1732

Mr Morrow: I would like to report back. Although the subcommittee tried desperately to come to an agreement, we could not come to an agreement. I would ask that

section 3 stand because we feel—well, not we—some of us feel Hamilton is close enough for the people of the Niagara region to appear in Hamilton. I would move acceptance of the whole report, Mr Chair.

Mr Chiarelli: I would like to move an amendment. I move that the report of the subcommittee be amended to include as one of the municipalities in section 3 the city of Cornwall.

The Chair: Mr Chiarelli moves the inclusion of the city of Cornwall.

Ms Gigantes: Clearly, the committee cannot go everywhere. The drive from Cornwall to Ottawa is not a long one. I am sure there will be enough interest in the Cornwall region to lead witnesses to come to Ottawa, so I do not think it is necessary.

Mr Mills: When this trip was organized, was there not some consideration given to the difficulty of hotel accommodation, flights, buses, etc, which played a major part in this agenda, rather than, as is being suggested, that the government members—I certainly never saw this until it was put in front of me this afternoon—had some peculiar input in this? I would just like the comment of the clerk—

Interjection.

Mr Mills: I did not see this until I came in here. I want to know the considerations that were given to this regarding accommodation, travel and meshing in all over.

The Chair: The clerk has already commented, and we have already gone into deliberations about the exigencies of travel. I do not think it is fair to ask her to become involved in what is essentially a committee debate.

Mr Mills: I am just asking if that was part of it.

Mr Poirier: I am personally quite knowledgeable of the situation in Cornwall. Being a geographer, I know the distance between Cornwall and Ottawa is not the distance between Thunder Bay and Ottawa, but I honestly believe, and I want to support Mr Chiarelli's motion, that Cornwall must be included because of the extremely difficult situation there, with the massive number of people going over to Massena. There is more than enough interest in Cornwall in discussing this issue to make a day in Cornwall, as opposed to asking the people from Cornwall to come to Ottawa. This is much too important a dossier to pass Cornwall over.

Mr Harnick: In response to what Mr Mills was saying, I was not at the subcommittee meeting; Mr Carr represented our party at the meeting. But I do know, for instance, that there is some misconception that you cannot get from Thunder Bay to Sault Ste Marie. Well, you can get from Thunder Bay to Sault Ste Marie. You can go on Bearskin Air; you can get a charter that will take you there. Allegedly, and I understand this from the clerk—

Ms Gigantes: You are supposed to be speaking to the motion.

Mr Harnick: I am not speaking directly to the motion. I am responding to what Mr Mills, your member, said. It is indirectly related to the motion, in response to what Mr Mills said.

Ms Gigantes: On a point of order, Mr Chair: The motion before us deals with the question of whether we add Cornwall to the hearing list.

Mr Harnick: I am getting to that. I am talking about the logistics of travel. The fact is that there is a flight that goes from Thunder Bay right to Sault Ste Marie, just as that flight goes from Thunder Bay to Sudbury. It is the same airline. I point out that all those problems can be avoided with a little planning. Because a place may be difficult to get to or because it may be somewhat difficult to find accommodation on a given day is no reason to avoid areas that are being very hard hit by the Sunday shopping legislation. One of those places is obviously Cornwall; one of those places is Sault Ste Marie. The fact that it may be difficult, and I think Mr Mills can appreciate what I am saying, is not a reason to ignore the citizens who live in those particular towns and cities.

Mr Chiarelli: We are speaking to my amendment, which is to include Cornwall on the itinerary. I have just looked through the very tentative agenda and it indicates four hearing days in Toronto before clause-by-clause consideration of the bill. This issue affects the whole province very significantly. I believe eastern Ontario should be better represented in terms of the travel time of this committee. That is one reason I am suggesting the border community of Cornwall.

Second, I did have the opportunity to speak to the member for Cornwall, Mr Cleary. He is tied up in another committee, but he did want to express his wish very strongly that this committee go to Cornwall, for a number of reasons, not the least of which is that Cornwall is being absolutely ravaged by this recession, free trade and cross-border shopping. This particular community could not be in more economic dire straits, Elliot Lake included. It is just dying on its feet. If for no other reason than to give these people an opportunity to participate in a matter of important concern to their economy, the issue of Sunday shopping, which is a significant component of the cross-border issue, out of fairness and equity to that community I would think we would consider the committee going to it, rather than suggesting that these people, who are economically strapped, travel all the way to Ottawa to participate in a hearing.

Those are the main reasons I have moved my amendment, and I hope the members on the government side would give this particular motion some due consideration.

1740

Mr Carr: As I mentioned originally in the subcommittee, I wanted to include that particular area. The feeling, as you know, was that we were going to bypass that complete area and go from Ottawa through to Peterborough, which would have left that entire region out. I think it would be easy to do from a logistics standpoint.

But rather than expense to those who wish to appear, I think we are talking about the time involved. As you know, we will not be sitting during the evening, so we are asking anybody who does have a job to take time off work. With the travelling as well, basically an individual is going to have to take the entire day off. If we go directly into some

of the communities like Cornwall, they might have to take off only the time to make their submissions.

So I think, as I originally wanted, we need to include that. With the concerns down there, I suspect we are going to get a lot of inquiries from people wanting to come in and I think that is an area that should be included.

Mr Sorbara: I regret we could not work this out during our recess. I am going to support the motion to amend the list of cities to which we are going to travel to include Cornwall—I think it would be a good idea—although if that motion is defeated I am going to support the motion if it just includes the cities that are here.

I had thought we could come to a compromise which would have us spend half a day in St Catharines. That could fit into the day we are in Hamilton or the following day, when we are scheduled to be in Toronto all day. I think that would have worked and that kind of compromise still can work, but it may well be that we are going to have to consider this motion on its merits and perhaps hold the vote when we come back tomorrow and see if over the evening we could not, with some judicious phone calls—I have yet to receive a phone call from anyone on this committee other than the Tory members trying to work things out, but I am still hoping. Or tomorrow during the day we could maybe have a chat before we get down to see if we can work out an arrangement.

I for one would like to go to one or two more border communities, because for those communities, although cross-border shopping is not Sunday shopping, the issue of Sunday shopping is particularly relevant.

If the government does not want to do that, I can understand. I accept that. I regret it, but I accept it. It is part of

the authority you have as a result of winning the election. You have the ability to say, "No, we're not going to go to any more border communities." Let's not hide, though, behind logistics, hotel arrangements, airplane arrangements or any of that stuff. If you want to go to more border communities, you can and we can. If you do not want to go to more border communities, you do not have to because you ultimately get to call the shot. There is a deal here, and I think the deal is for the government to yield in one, perhaps even two, circumstances.

Mr Morrow: I asked you to deal. You said no.

Mr Sorbara: He wants to interject, does the Vice-Chairman. He says he wants to deal, for some reason, by ditching North Bay and including Timmins. There was no reason given to me for that. I do not understand why that change is requested, so I do not accept it. I understand why the request for St Catharines has been made, and I would support it. If that request fails, I support this deal I have already signed on to, but I want to tell the members of the government on this committee that they can satisfy our Conservative friends here by one or two more concessions to get not right to the border—we are not going to have hearings at the Customs gate—but communities for whom Sunday shopping is a particular problem.

Derek Fletcher says no more concessions. Maybe there are no more concessions. Let's have a 20-minute bell on this thing and think about it overnight.

The Chair: We have a vote tomorrow afternoon. We are adjourned until tomorrow after routine proceedings.

The committee adjourned at 1746.

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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Chair: White, Drummond (Durham Centre NDP)
Vice-Chair: Morrow, Mark (Wentworth East NDP)
Carr, Gary (Oakville South PC)
Chiarelli, Robert (Ottawa West L)
Fletcher, Derek (Guelph NDP)
Gigantes, Evelyn (Ottawa Centre NDP)
Harnick, Charles (Willowdale PC)
Mathyssen, Irene (Middlesex NDP)
Mills, Gordon (Durham East NDP)
Poirier, Jean (Prescott and Russell L)
Sorbara, Gregory S. (York Centre L)
Winneringer, David (London South NDP)

Substitution: Wessenger, Paul (Simcoe Centre NDP) for Mr Winneringer

Clerk: Freedman, Lisa

Staff: Swift, Susan, Research Officer, Legislative Research Service



J-32 1991

J-32 1991

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Legislative Assembly of Ontario

First Session, 35th Parliament

Official Report of Debates (Hansard)

Tuesday 25 June 1991

Standing committee on administration of justice

Conflict-of-interest guidelines

Assemblée législative de l'Ontario

Première session, 35^e législature

Journal des débats (Hansard)

Le mardi 25 juin 1991

Comité permanent de l'administration de la justice

Lignes directrices
sur les conflits d'intérêts



Chair: Drummond White
Clerk: Lisa Freedman

Président : Drummond White
Greffier : Lisa Freedman



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Tuesday 25 June 1991

The committee met at 1537 in room 228.

CONFLICT-OF-INTEREST GUIDELINES

Resuming consideration of the Premier's conflict-of-interest guidelines.

The Chair: I call the meeting to order. Where we left off yesterday afternoon was an adjournment prior to voting on the issue of Mr Chiarelli's motion, which was to include Cornwall in our list of towns for visitation. Further discussion? All in favour? Opposed?

Motion negatived.

Mr Harnick: On a point of order, Mr Chairman: I wonder if we might note for the record that the opposition parties were in favour of Cornwall and the government—

The Chair: It is not a point of order. Thank you. The researcher has a small point she would like to bring our attention. Would it be all right if we allowed Susan to speak briefly first, Mr Harnick?

Mr Harnick: Can I make a motion?

The Chair: Ms Swift wanted to make a point about the report from yesterday and then Mr Fletcher and then yourself.

Ms Swift: This is a relatively minor matter. When I gave you the report yesterday, I did not include a separate list of the recommendations, so what I have done is number the recommendations from the report that you approved yesterday and included, and will include, subject to your approval, a separate list of the recommendations, setting them out by numbers.

Ms Gigantes: On that matter, I wonder if we could also attach the guidelines with the report, because otherwise we do not know what we are speaking of in most of the report.

Miss Swift: Sure.

The Chair: Basically, we are looking at those things as additions to the report as circulated. Could we have a motion to make those alterations?

Ms Gigantes: I so move.

The Chair: All in favour? Opposed?

Mr Fletcher: Is it my understanding that we have a motion on the floor to accept the subcommittee report, or was there an amendment?

The Chair: The amendment was defeated. I am sorry. We should properly have returned to the motion. However, Ms Swift requested an addition, which really reflects back to our earlier discussions.

Mr Fletcher: Are we on the motion or are we on the—

The Chair: We should be on the motion, sir.

Mr Fletcher: Then I would like to call the question on the motion.

The Chair: The question is called.

Mr Harnick: I have not had a chance to speak on the motion. The Liberal Chiarelli spoke and he brought an amendment—

The Chair: The clerk brings to my attention that while we did discuss at some length the amendment, or proposed amendments that were not actually brought to the floor, we did not at great length discuss the report itself.

Mr Morrow: On a point of order, Mr Chair: We sat in this committee for over an hour yesterday discussing, I do believe, the third paragraph of the report. I do believe all three parties had adequate time and my colleague Mr Fletcher has called the question. I would ask that you support his calling the question. There was adequate time for this yesterday.

The Chair: My ruling is that, while we discussed the amendment to the extent that I think closure would have been appropriate, we did not actually discuss the motion itself at great enough length. I think I have already made that ruling.

Interjection: What does great length mean? Is one hour, two hours, three hours great length?

Mr Fletcher: Mr Chair, do I still have the floor?

The Chair: You do have the floor. Yes, sir, go ahead.

Mr Fletcher: We discussed this whole subcommittee report yesterday for quite a number of hours.

Mr Harnick: We spoke about the amendment; we did not speak about the motion. Again, you are invoking closure.

Mr Fletcher: Do I have the floor, Mr Chair?

The Chair: You do.

Mr Fletcher: Thank you. We discussed this whole subcommittee report for a number of hours yesterday and we looked at—

Mr Harnick: We were only here for two hours.

The Chair: Mr Harnick, he has the floor.

Mr Harnick: Well, at least make sure he is accurate.

The Chair: Mr Harnick, please. I have already ruled against.

Mr Harnick: You guys blew it. I could have made my motion, we could have lost, and then great cheers, and now we will probably end up taking—

Mr Fletcher: Do I have the floor, Mr Chair?

The Chair: You do, sir.

Mr Fletcher: Thank you, Mr Chair. We discussed this subcommittee report for a number of hours yesterday.

Interjection.

The Chair: Would you please allow Mr Fletcher to speak without interruption.

Mr Harnick: My interventions are relevant.

The Chair: Mr Harnick.

Mr Fletcher: Mr Chair, other than talking about this recommendation, I do feel that the member sitting opposite is showing total disrespect for the rulings of the chair and a total disrespect for the Chair.

Mr Harnick: Have me ejected.

Mr Fletcher: I think something should happen, Mr Chair, because this is not the first time this has been complained about. I know what we can do because, as I was saying, I do believe we have talked about this subcommittee report and I cannot agree with your ruling that we have not had the opportunity, just because of the technicality that it was not moved before the discussion went on. The discussion was on the total report and especially section 3, and then it was moved only because it was a technicality. I cannot agree with your ruling and I would hope you would reconsider that ruling. Thank you.

Mr Harnick: On a point of order, Mr Chairman: You have made a ruling and the member has challenged your ruling. We had a motion on the floor yesterday that was an amendment to that motion.

The Chair: Is this a point of order?

Mr Harnick: Yes, it is. If he is permitted to make the argument he made, why can I not make the argument I am going to make? I do not know where you stand, because you change your mind several times in the course of deliberating on these things and I have no idea where you stand right now.

The Chair: Mr Harnick, I made up my mind. I made a ruling that a motion for closure was not in order at this point. I clearly stated that.

Mr Harnick: May I speak to that?

The Chair: I do not know why I allow further discussion on that when it was already past the point at which I had made that ruling. Now, sir, we have in front of us the motion. As you so rightly point out, we are no longer discussing my ruling, which has already been made. In front of us is the motion. We should be discussing the motion, not a closure motion that has already been ruled against.

Mr Harnick: I am prepared to discuss the motion.

The Chair: Go ahead, sir.

Mr Harnick: I would like to propose an amendment to the motion. I move that the committee travel to Sault Ste Marie, Niagara Falls and St Catharines and have hearings in each of those locations. They are significant border locations and the impact of this Sunday shopping legislation is detrimental to them. I also request that we have a recorded vote.

Yesterday we had discussion on the importance of going to these border cities. I can appreciate that it is the government's position, as is stated on the record, that it draws a very significant distinction between cross-border shopping and Sunday shopping. They do not believe there

is any overlap between those two issues. I simply say that when a community is not able to be open and an adjacent community on the other side of the border is able to be open on a Sunday, people avail themselves of the opportunity on that so-called pause day to cross the border and do their shopping. In fact, they do it in another country, they hurt people doing business in their own communities and there is a significant impact on people trying to maintain the viability of their businesses in border towns in Ontario. Accordingly, and I agree it may not be the total answer to the cross-border shopping problem, it certainly compounds the problem border communities are having, that when they cannot compete on a Sunday they lose business, and it is business they cannot make up.

I appreciate that the government does not see this as a significant problem. They laugh at the contents of my motion and at the remarks I am making, and I want those—

Ms Gigantes: On a point of order, Mr Chair. I think you should ask Mr Harnick not to impute our motives. We are not laughing at his amendment at all.

Mr Harnick: Let me put it this way: As I speak, they laugh. I do not know what they are laughing at, but they certainly are not listening to the content of what I am saying and I merely point that out.

Mr Winner: As a point of personal privilege: A member can listen attentively and laugh at the same time at a totally unrelated subject of humour.

1550

Mr Harnick: I point that out to the people in Sault Ste Marie and the people in St Catharines and the people in Niagara Falls and even those people in Cornwall. Although we did not ask for a recorded vote at that time, I might advise that the opposition was fully in favour of going to Cornwall to discuss the Sunday shopping legislation and the government members unanimously voted against going to Cornwall. I think the people in those communities should know there is not an ear on the government side that is prepared to listen to them and prepared to help them through probably the most trying economic circumstances those border communities have faced since the Depression. That is something we have heard the Premier speak about.

At any rate, those are all the comments I have to make. As I said, Mr Chairman, I would like a recorded vote and I have no further comments to make at this time.

The Chair: You might want to remind me of that at the time of the vote, sir.

Mr Sorbara: I am going to be supporting Mr Harnick's motion and I hope we can get to it soon. I do not expect we will win the motion but, just to explain to my friends on the committee why I will be supporting it, I want to make the point clear that I am going to live with the list of cities we ultimately come up with but just want to express my disappointment that the government members are unwilling to bring these hearings to other border communities.

I appreciate that cross-border shopping is not exclusively a Sunday shopping issue. Of course it is not. It is a tax issue, it is a cost-of-doing-business issue, it is a value-of-the-dollar

issue, but for border communities not having the opportunity to open on Sunday really is part of the competitive disadvantage.

In fact, when our Sunday shopping legislation—I cannot remember the number of the bill; I am sorry about that—was before the Parliament, one of the serious criticisms that the then opposition party, the NDP, launched against our bill was that it would pit community against community and have a domino effect. It would force all communities to open. For example, if Metro Toronto decided to allow for so-called wide-open Sunday shopping, it would be virtually impossible for the region of York or the region of Durham or the region of Peel, all of which are neighbouring municipalities, to resist the pressure to open on Sunday because of the competitive disadvantage. That point was argued eloquently by the opposition.

In our view, they were wrong on the point that the marketplace would determine which stores opened and which stores did not, in the main, to the extent that municipalities would agree, but nevertheless the point was made and I think it was an interesting and a strong point because it reflected the realities of the marketplace.

Any of you who have lived in a border community like Niagara Falls, Windsor or Sault Ste Marie know full well that the community on the other side of the border is really just next door, at least in terms of the consumer marketplace. It is a little bit different, but not that much different, from crossing Steeles Avenue from York region into Metro. Admittedly, there are some disincentives—there is a wait at the border, there is Customs—but there are also some very significant incentives. That brings us back to the cross-border shopping issue.

For all of those reasons, the issue of Sunday shopping is of particular concern to these communities. Talk to the mayor of Windsor who recently said, much to the chagrin of the Premier, that his community would simply declare itself a tourist area in every corner and therefore be open on Sunday. To Windsor and to Niagara Falls and to Sault Ste Marie and other border communities, cross-border shopping also includes the issue of Sunday shopping.

So when we now vote as a committee, at least when you vote to exclude those communities from an opportunity to have the committee come and visit them, I think it is an affront and that is why I ask you simply to reconsider. I would be willing to substitute communities that are already on the list. We cannot make our hearings longer.

By the way, the political risks you suffer are minimal. Yes, there will be some criticism there, and yes, perhaps the depositions will be somewhat stronger, but what you lose there you will gain in terms of courage. In the end I think that is probably a more important political plus; that is, the courage to go in and confront the communities that want something slightly different than what is in your bill.

All of us who have carried a bill have been through this kind of stuff. I perhaps make too many references to Bill 162, but it was a very controversial bill, amendments to the Workers' Compensation Act. My strategy was to take that bill to the heart of those communities that were most opposed to it. I believed in it strongly, I believed we were making important improvements to workers' compensation

and I respected the opinion on the other side. Gord Wilson and the Ontario Federation of Labour waged a magnificent campaign against the bill. I knew I was going to win because we had the majority.

Maybe we lost the election because of Bill 162, but I think not. I think that was not the issue. I think other issues played a much more important factor. Your next election is, God knows, four years away and down the road. Frankly, I think we are probably going to have wide-open Sunday shopping by that time no matter what law you pass now. But down the road no one will remember except about your political courage, whether you have the courage to go to where the problem is felt most directly. I just want to say that in my view, and it is not infallible, those places are border communities. It is not that North Bay is not concerned and not that, heaven knows, Collingwood or Peterborough or Lindsay or Trent are not concerned about these issues. They are, and there is a wide variety of opinion out there and that is why this issue is so difficult.

The people of Ontario are schizophrenic about Sunday shopping. They want all the stores to be closed except for the ones they shop at. That is why it is so difficult to come to grips with the issue. We all feel sort of the same way about it. You cannot have one general rule, and that is why we went to a municipal option, yet we do not seem comfortable to move to simply vacate the territory and let the marketplace determine.

I plead with you as we start this venture just to take a politically courageous route. It is not going to change the dynamic very much; it will just make those communities slightly happier. We do not get the political opportunity of sending out a press release saying that the government refused to come to Niagara Falls, and we will forgo that for the opportunity of bringing this committee there. If you do not go, by the way, we will go ourselves. Our party has already determined to have Liberal hearings in those communities if this committee refuses to go. I just plead with you in the interest of trying to make this thing work well.

I want to say that if Charles' amendment passes, we would be willing to forgo some other communities. For example, I would prefer Sault Ste Marie to North Bay. I would prefer Niagara Falls to all the time we have in Hamilton or perhaps one of our days in Toronto. I personally would be satisfied with Niagara Falls and Sault Ste Marie.

I implore you to set aside the whip and set aside the political demands of the Solicitor General and show just a spark of independence here. I want to assure you, to the extent I can, that it will not mean the failure of the legislation. You have the votes to pass it. There may be one or two little amendments this committee can advise on to improve the bill slightly, but going to Niagara Falls and Sault Ste Marie will not destabilize the province, destabilize the legislation or destabilize this committee, but it will be an act of political courage, and I recommend it.

1600

Mr Morrow: I am obviously going to speak against the amendment because basically the amendment does not support what we did last week or what we did yesterday. As we all know, the main motion supports the subcommittee's

report. As far as I can see, Bill 115, the Sunday shopping legislation, has nothing at all to do with cross-border shopping. They are two distinct, separate identities. Basically, cross-border shopping is a federal matter. It is a problem with GST—

Mr Harnick: Therefore you just bury your head in the sand.

Mr Morrow: We do have a provincial matter here as in Bill 115. As far as I can see, if we have a one-day hearing in Hamilton, all areas such as St Catharines and Niagara Falls are properly represented because they are all within at least one hour of Hamilton, nowhere close to two hours.

Mr Sorbara: Mark, do not put this on the record. Let's just vote.

The Chair: Mr Morrow has the floor. Let him say it, will you?

Mr Morrow: I let you talk, right? My understanding from talking to the clerk is that yes, we will pay for groups to come in and represent themselves. We will pay for individuals to come in and represent themselves. There is no problem there. We are listening to the public. I would like to remind Mr Harnick, by the way, that in the House on 17 June, when we were debating second reading of Bill 115, your leader did want to take the third reading. This government wants to put it out for public hearing. I would like to remind you of that. I also would like to remind you that to go into St Catharines and Niagara Falls would be a significant cost, not only to this committee but to this government, and we are committed to doing things properly.

I would now like to call the question, if I may.

The Chair: The question is put. All in favour of calling the question?

Mr Mills: Did you have my name down?

The Chair: I have your name, I have Mrs Mathysen, Mrs Gigantes, Mr Winner. However, the question has been put. All in favour of putting the question?

Mr Sorbara: Hold on a second.

The Chair: It is not debatable.

Mr Sorbara: This is to cut off debate.

The Chair: It is not debatable, thank you. All in favour of putting the question?

Interjections.

The Chair: I am sorry. My apologies. Procedurally speaking, the clerk reminds me that putting the question puts the previous question, which is the report of the committee. The report of the committee, not the amendment.

Interjections.

The Chair: The clerk informs me what when you move closure, everything that has not been passed is superseded and you go back to the original report.

Mr Morrow: Are you saying that if I call the question I am calling the question on the original motion?

Mr Harnick: What happens to the amendment, then?

An hon member: It disappears.

Mr Harnick: Then I would like a recorded vote.

Mr Morrow: Okay, then I am calling the question.

Mr Harnick: May I say something?

The Chair: Are you wishing a recorded vote?

Mr Harnick: Yes, I want to put it on the record.

The Chair: That is fine. The question is being called.

Mr Sorbara: Is it debatable who is calling the question?

The Chair: No. Mr Harnick is asking for a recorded vote, which I think is in order, is it not? All in favour of the report of the subcommittee in front of us?

The committee divided on the subcommittee's report as presented which was agreed to on the following vote:

Ayes—6

Fletcher, Gigantes, Mathysen, Mills, Morrow, Winner.

Nays—3

Harnick, Poirier, Sorbara.

The Chair: Any other business? Do we move adjournment?

Ms Gigantes: I move adjournment.

The Chair: Ms Gigantes moves adjournment. All in favour? Opposed? We are adjourned until 29 July.

The committee adjourned at 1604.

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First Session, 35th Parliament

Official Report of Debates (Hansard)

Monday 29 July 1991

Standing committee on administration of justice

Retail Business Establishments
Statute Law Amendment Act, 1991

Assemblée législative de l'Ontario

Première session, 35^e législature

Journal des débats (Hansard)

Le lundi 29 juillet 1991

Comité permanent de l'administration de la justice

Loi de 1991 modifiant des lois
en ce qui concerne les
établissements de commerce de
détail



Chair: Drummond White
Clerk: Lisa Freedman

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Monday 29 July 1991

The committee met at 1308 in committee room 1.

RETAIL BUSINESS ESTABLISHMENTS STATUTE LAW AMENDMENT ACT, 1991

LOI DE 1991 MODIFIANT DES LOIS EN CE QUI CONCERNE LES ÉTABLISSEMENTS DE COMMERCE DE DÉTAIL

Consideration of Bill 115, An Act to amend the Retail Business Holidays Act and the Employment Standards Act in respect of the opening of retail business establishments and employment in them.

Étude du projet de loi 115, Loi modifiant la Loi sur les jours fériés dans le commerce de détail et la Loi sur les normes d'emploi en ce qui concerne l'ouverture des établissements de commerce de détail et l'emploi dans ces établissements.

MINISTRY OF THE SOLICITOR GENERAL

MINISTRY OF LABOUR

MINISTRY OF TOURISM AND RECREATION

The Chair: I would like to call this meeting of the standing committee on administration of justice to order. We are here to hear initial submissions in regard to Bill 115, an act to amend the Retail Business Holidays Act. As our first witnesses we have Mr Farnan, the Solicitor General, Mr Mackenzie, the Minister of Labour, and Mr North, the Minister of Tourism and Recreation, who will be making some brief introductory comments. I understand Mr North and Mr Mackenzie will only be with us for the first hour, and in consequence we should possibly think of the initial questions going to those honourable members. We have time for initial comments. Would you like to make them separately or together at the witness box, gentlemen?

Hon Mr Farnan: Good afternoon. I want to take the opportunity, first of all, to thank the committee for the opportunity to be present and to address the committee this afternoon. You have a key role to play in bringing to fruition the Retail Business Establishments Statute Law Amendment Act, otherwise known as Bill 115.

This legislation is important to the citizens of Ontario because it will further ensure a common pause day for retail workers and thereby help strengthen family and community life in the province. At the same time, it will maintain and enhance Ontario's tourism industry by allowing tourist-based businesses to operate on Sundays and other holidays. But it will also protect retail workers who do not wish to work on Sundays or other holidays and it will establish a provincial-municipal partnership in allowing municipalities to determine their special tourism industry needs within province-wide guidelines.

As you know, Bill 115 was introduced in the Legislature on June 4, 1991, and received second reading on June 17. The provisions of this bill include amendments to both the

Retail Business Holidays Act and the Employment Standards Act. The proposed amendments to the two acts included in Bill 115 will improve the effectiveness of both these laws.

Principally, the amendments to the retail business holidays law will ensure that retail business holidays are common pause days throughout the province. Municipalities should not use their exemption power to permit retail stores to open on Sundays or other holidays except to maintain and develop tourism.

The amendments to the employment standards legislation would give employees the absolute right to refuse Sunday and holiday work. It would also guarantee 36 hours of continuous rest in every seven days and strengthen the role of employment standards officers in dealing with employee complaints.

I would like to offer now a brief historical overview to the committee. Like any sequence of historical events, it is useful in defining where we are today, and indeed where we are going tomorrow.

The issue of retail activity on Sundays and other holidays has been a topic of frequent debate, indeed often heated debate in this province since 1845. That was the year Upper Canada passed a law banning just about every Sunday activity except churchgoing. The history of related legislation tends to mirror the evolution of our society. It reflects both tradition and change. It chronicles our long-standing values and our evolving attitudes.

During the 1880s, for example, streetcars were not allowed to run on Sundays. Sunday shopping, or the transaction of any business for that matter, was made illegal by the federal Lord's Day Act of 1906. In 1943, Toronto movie theatres were first permitted to open on Sunday, but only to members of the armed forces. This privilege ended in 1945 and was only restored in 1961, and professional sports were banned on Sundays until 1950, when municipalities were permitted to pass enabling bylaws.

While the history of Sunday and holiday shopping laws may seem marked by quaint anachronisms, the strong thread that runs through it and pulls us towards our purpose here today is a strong desire on the part of Ontarians for some structure or framework to their working week.

Our government's commitment to support that desire was expressed in the throne speech last November. Our promise to support legislation which provides for a common pause day while protecting the rights of retail workers was sincere, and indeed a priority for us during the recently completed session in the Legislature.

A closer look at the recent history of the Retail Business Holidays Act will help put the importance of Bill 115 in proper perspective. In June 1990, the Supreme Court of Ontario declared the existing legislation to be unconstitutional, due primarily to the virtually unrestricted powers delegated

to municipalities. That decision was appealed and was heard by the Ontario Court of Appeal in September 1990.

The court's ruling in March of this year reinstated the Retail Business Holidays Act as the law of the land. In doing so, it recognized the pressing and substantial concerns for a common pause day addressed by the legislation. After the court's decision, I promised to introduce amendments to improve the legislation and to make it more effective. It was decided that amendments to both the Retail Business Holidays Act and the Employment Standards Act were necessary to achieve this.

I should point out that the amendments to the Employment Standards Act do not apply to the hospitality industry, which includes hotels, motels, tourist resorts, restaurants, amusement parks and museums. These enterprises are exempt from the current legislation regarding the right to refuse Sunday work and will continue to be exempt.

I must emphasize here that both acts are in effect in their entirety at this time. The existing provisions are in force and their basic principles—that is, worker protection and the common pause day—are not up for negotiation.

My ministry administers the Retail Business Holidays Act, and I think it would be useful if I briefly reviewed its provisions as they exist today.

Mr McLean: On a point of order, Mr Chairman: The fact is that Mr North and Mr Mackenzie are here for one hour, from 1 to 2. My understanding is that Mr Farnan is here until approximately three. Perhaps we should be listening to the other two ministers, who are leaving at 2 o'clock, before time runs out.

Mr Sorbara: On the same point of order, Mr Chairman: Perhaps the Solicitor General might just give us an indication of how much longer his opening remarks are going to be, either in pages or time, and then we could determine whether or not we have to express any concern that we will not get a chance to question either of the other two ministers.

Hon Mr Farnan: I am just over halfway through my remarks.

Mr Sorbara: That gives me a little cause for concern.

The Chair: Which means Mr Farnan would be finished before half past.

Mr Sorbara: Might I suggest perhaps that the Solicitor General proceed as quickly as he can through his remarks and then that we hear quickly the remarks from the other two ministers, and then have an opportunity to question the other two ministers, inasmuch as they have to leave, and then ask the Solicitor General to return for questioning after 2 o'clock. Would that be agreeable?

Hon Mr Farnan: Yes. I will try and move through this as quickly as possible to facilitate that.

The current act essentially calls for most retail business establishments to be closed on Sundays and other holidays enumerated in the legislation. Most exemptions are based on providing flexibility to small businesses which sell certain types of goods and on recognizing on the need for important or essential services to carry on in response to public need.

There is also a Sabbatarian exemption which accommodates owners of retail businesses who observe a religious

day other than Sunday. In addition, activities which seem to be conducive to the concept of a common pause day are accommodated. For example, subsection 3(6) provides an exemption for businesses of an educational, recreational or amusement nature.

The great shortcoming in the act lies with section 4. It provides that municipalities may create bylaws which can further restrict or exempt holiday retail activity. The unrestricted scope of the authority given municipalities under this section presents the potential for a patchwork of inconsistent holiday retail practices across the province. Through Bill 115, a revised section 4 has been proposed which allows municipalities to pass bylaws to accommodate local tourism-dependent areas and businesses.

While the administration of this process is the responsibility of municipalities, they are required to ensure that provincial criteria, in the form of accompanying regulations, are met before they can grant the tourism exemption. This will ensure that genuine tourism-based needs are addressed with uniformity and fairness across the province.

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Municipalities would be empowered to make the final decision on applications for exemption, and develop their own procedures for dealing with applications and establish fees to cover the costs of this process. Municipal councils are not compelled to grant such exemptions, even if the criteria are met by an applicant. In fact, in the text of the bill, councils are reminded of the importance of maintaining holidays as common pause days when considering the passage of a bylaw.

The focus on tourism in the proposed new section 4 of the act is a key component of Bill 115. As a cornerstone of our provincial economy, the unique requirements of the tourism industry must be addressed. Permitting municipal councils to administer the tourism exemption ensures that local needs will be met and legitimate tourism-based businesses will be protected and promoted in co-ordination with local economic development plans.

The other proposed change to the Retail Business Holidays Act establishes minimum fines for violations of the act. The significance of this is clear, since it reflects the seriousness with which our government views the purpose of this legislation. We believe strongly in the need for effective and fair legislation which provides for a common pause day for Ontarians while protecting the rights of retail workers and recognizing the unique requirements of the tourism industry.

As I have said, Ontarians have also expressed, through a long history of related legislation, that this kind of law is a vital component in our society. It is part of our Canadian heritage to place a high value on the quality of life and community values. We Canadians seek to achieve a balance between the interests of the individual and the interests of the community at large. Our government remains resolved to support this vital component in the quality of life for the people of Ontario.

Before I conclude, I would like to address the importance of consultation. I commend the members of this committee for the role you will play in this important process. Your committee provides an opportunity for

Ontarians to voice their opinions on the proposed legislation. This is an important part of our open and accessible system of government. The committee's objective analysis of public input will play a significant role in determining the final shape of Bill 115.

I think it is important, however, that the fundamental principles of this legislation remain intact. These are the principles of a common pause day, the principle of protecting retail workers, the principle of allowing a tourist exemption and, finally, the principle of partnership with the municipalities that allows for local needs to be met within the context of provincial guidelines. Our government believes, and I feel quite strongly, that a responsive government is a responsible government.

I thank the committee members for their efforts in reinforcing the process of open and accessible government in Ontario. I am pleased to advise the committee that members of my staff and ministry staff will be attending the hearings of the committee around the province and will be available at all times to assist the committee.

I have with me today Mr David Spring from the legal branch of the Ministry of the Solicitor General. I will be asking him to join me here after the other ministers have made their presentations. At this stage, I would hand over the floor to the other members of the delegation.

Hon Mr Mackenzie: I will try to be as brief as I can so that there is some time for questions.

Before I begin my remarks, I would like to say that I am very pleased that this legislation has come before this committee for public deliberations of a most important issue.

I would also like to inform the committee that my staff and ministry staff will be monitoring these hearings closely and reporting back to me. They will also be available to assist the committee on any questions that may arise as you travel across the province.

As my colleague the Solicitor General has mentioned, a common pause day is essential if we are to maintain and improve the quality of family and community life that we enjoy here in Ontario. In order that thousands of retail workers in this province are able to participate in this quality of life without the fear of losing their jobs, this government proposes to amend the Employment Standards Act as part of Bill 115.

Retail workers, full-time and part-time, will have the absolute right to refuse work on a Sunday. No reasons for the refusal will have to be given to the employer.

Employees who agree to work on a Sunday but subsequently decide not to will be able to refuse, once again without giving a reason, with 48 hours' notice to the employer. This notice may be either verbal or written.

In addition, retail employees will also be guaranteed 36 hours of continuous rest in every seven days. Workers who volunteer to work on a Sunday will still be able to enjoy a regular day of rest.

Under Bill 115, retail employees will be able to exercise these rights with the protection of additional provisions of the Employment Standards Act. These will prohibit employers from dismissing the employee or taking other punitive measures, such as discipline, suspension, layoffs, threats, intimidation or coercion.

There have been some concerns raised about the enforceability of the proposed new provisions of the Employment Standards Act.

The amendments outlined by the Solicitor General for the Retail Business Holidays Act will ensure that most retail workers will not be forced to work against their wishes on a Sunday since the majority of retail establishments will be closed.

The amendments give retail workers the absolute right to refuse work on a Sunday with no reasons required. This will provide a right without qualification as in the current right to refuse unreasonable work.

Also, under the amendments to the Employment Standards Act in Bill 115 employment standards officers will be able to issue orders for compensation or reinstatement if an employer takes action for refusal to work on a Sunday. Employers and employees will retain their right to appeal any order issued by an employment standards officer.

Other amendments to the Employment Standards Act outlined in Bill 70 provide for an accelerated appeals process for employers and hearings by independent adjudicators for employees. This bill is currently under deliberation by the standing committee on resources development. Appeals will be heard within 45 days of filing, with a decision within 90 days of the initial hearing. Neither employers nor employees will be tied up in lengthy and protracted appeals procedures.

The amendments to the Employment Standards Act outlined in Bill 115 relate solely to retail workers. Generally speaking, these are workers who are for the most part unorganized and least able to fully exercise their rights. Workers from the hospitality industry businesses, such as hotels, motels, restaurants, tourist resorts, amusement parks and museums, will be exempted from these amendments, just as they are under the current provisions for unreasonable Sunday work.

The principle of a common pause day is an important one. It is a principle that we have fought for for years and it was directly outlined in the speech from the throne.

I urge the committee members to listen carefully to the points that are raised during the public hearings into Bill 115. I urge you to make your report in a thoughtful and thorough fashion, keeping in mind that the underlying principle of Bill 115 is to give retail workers a right that most of us enjoy, and that is the right to a day of rest.

I thank you for the opportunity to make this presentation.

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Hon Mr North: I will try to be as brief as I can. I am delighted to appear before your committee as you begin the important task of reviewing Bill 115. During the next few weeks, you will hear presentations from a wide variety of interest groups. You will need to carefully consider and balance their views when preparing your final recommendations for changes, if any, to Bill 115.

I am pleased that Bill 115 recognizes the importance of the provincial tourism industry by providing an exemption for legitimate tourism businesses in the retail sector. I hope that after consultations your committee will recommend we keep this provision.

Bill 115's major objective is to balance the importance of providing a common pause day for workers and their families in Ontario with the need to recognize the impact tourism has in communities throughout our province. I have met with representatives from the tourism business across Ontario. I remain convinced that maintaining this balance is important.

Tourism and recreation play an important role in the growth of Ontario's economy. Tourism is Ontario's fourth largest export industry. In 1989, it created 160,000 jobs province-wide. In 1990, tourists travelling throughout Ontario spent a total of \$15.5 billion.

The current act requires most Ontario retail businesses to close on Sundays and holidays. Many people use these days to travel, visit friends and relatives and enjoy Ontario's natural and man-made attractions.

Today, travel and other leisure activities are more than frills. Many people are able to reduce the stress they face in their everyday lives by relaxing and sharing activities with their families. In that sense, quality leisure activities help people to lead healthy, productive and fulfilling lives.

For many people, shopping can be an important part of a tourism experience. In fact, Sundays and holidays are the very days when most tourism-dependent operations and communities do the majority of their business. They should have the opportunity to remain open. Businesses dependent on tourism actually enhance the common day of rest by providing leisure services Ontarians need and enjoy.

Our balance must consider the needs of a diverse workforce. It must also consider the needs of diverse communities. Each region of Ontario has distinctive tourist attractions and strengths. They include historical sites, ethnic and cultural festivals, natural attractions such as lakes and rivers and a large variety of recreational activities. Given this regional diversity, flexibility in the treatment of businesses dependent on tourist attractions is essential.

The provisions of Bill 115 would give municipalities the opportunity to establish an exemption for retail establishments closely associated with the local tourism industry. Municipalities could then cultivate the major economic and social benefits tourism can provide.

After Bill 115 and the draft regulations have been finalized, our ministry will provide guidelines and work with municipalities and representatives of the tourism industry to assist in the implementation of the new legislation. I am confident your committee's report will help us towards a fair and workable balance that will allow for continued development of Ontario's tourist industry.

The Chair: Thank you, Mr North. We have approximately half an hour for questions, which will be, I believe, on a rotating basis, starting with the official opposition.

Mr Sorbara: It is nice that we are all back together again on the great ship Sunday Shopping, which leaves Queen's Park every three years without fail. I want to direct my first question—there are three parts to it—to—

The Chair: The questions are rotated.

Mr Sorbara: That is right.

The Chair: The first question, the second question, the third question.

Mr Sorbara: I appreciate that.

The Chair: Thank you.

Mr Sorbara: I want to direct the first question that I ask in the rotation to the Minister of Labour, Mr Mackenzie, and there are three parts to the question. The first part refers to the final words of his statement, in which he says he would like "to give retail workers a right that most of us enjoy, and that is the right to a day of rest."

Might he point to the place in the statutes of Ontario where non-retail workers, that is, workers in any other sector of the economy, have a statutory right to a day of rest, with the exception of the One Day's Rest in Seven Act, which does require one day of rest in seven to workers in the hotel industry? Do workers other than retail workers have special statutory provisions giving them what he says most of us enjoy, and that is the right to a day of rest?

The second part of the question has to do with the substance of the legislation itself. As he knows, the current act provides for a retail worker to refuse an unreasonable assignment of Sunday work and at the same time provides a mechanism to make a judicial determination whether or not an assignment of Sunday work is unreasonable. That is the pith and substance of Bill 114, the predecessor of Bill 115.

Could the minister tell this committee why in his view it is more reasonable to give a retail worker the absolute right to refuse an assignment of Sunday work, that is to say, to give the retail worker the right to agree on Monday morning with an employer that he or she or they—let's take a workforce of five people—agree with the employer, perhaps in writing, that they will be available for Sunday work, and Thursday evening, having decided for some reason or another that they choose not to work on Sunday, have an absolute and statutory protection to advise the employer that they are refusing to work that Sunday?

The third part of my question to the minister is this: The provisions in Bill 114, the predecessor bill, which prohibited the employer from taking any retaliatory action against a worker who refused an unreasonable assignment of Sunday work, were on perhaps 15 or 20 occasions described by the minister when he was in opposition as "not worth the powder to blow them to hell." In his speeches, most of them very eloquent, he said that most employers when they saw that provision would just laugh and would find other means and mechanisms of retaliating against their employees if they refused an unreasonable assignment of Sunday work. In his words, those provisions were "not worth the powder to blow them to hell."

I have compared the provisions in his bill with the provisions in my bill, and the prohibition sections and the penalty sections look surprisingly similar. I am not surprised to say that, because they were drafted by the same competent bureaucrats who advised me and are now advising the minister. But I am wondering if the minister can point out specifically what provisions there are in his bill which will ensure that his provisions are "not worth the powder to blow them to hell."

The Chair: There were three parts to that. Is there any particular choice you have in terms of which of those questions you would like the minister to answer?

Mr Sorbara: Let's see if the minister might wrap it all up in one comprehensive answer, with the indulgence of the committee.

The Chair: As we have agreed to rotate questions, you should probably choose which of those three questions you wish to pose to the minister.

Mr Sorbara: I think that ruling this early in these committee hearings poisons the nature of how we are going to go. I am not going to choose. I will let the minister choose.

The Chair: It was the subcommittee that agreed to that, and you are part of that subcommittee.

Mr Sorbara: The minister can answer one or all of the questions. In fact, the minister does not have to answer any of the questions.

Hon Mr Mackenzie: I am going to answer some of this and some of it I may have Ron Saunders, who is the assistant acting director of policy, answer for me as well.

On the last one, with regard to my comments in the past about "not worth the powder to blow them to hell," I grant that one of the few regrets I have from time to time is some of the words I used in opposition. In fact, the employment standards officers now can issue an order if they wish, even directly. We have given a credibility and an enforcement value to the orders that we just do not think was there prior.

Mr Sorbara: We could argue about that.

Hon Mr Mackenzie: It is not a statutory right to refuse which we have had in the past. We now have a statutory right for retail workers to refuse and they do not have to give any justification for their reason. The fact that they can refuse without any justification at all is a clear indication that the decision is theirs, and that the common pause day, the right of rest, is the right of the employee himself in any event.

Mr Sorbara: But under the existing law, they have to explain their reasons. They ultimately have to justify. Someone has to decide whether it is unreasonable. Under your law, if they get tickets to the ball game on Sunday afternoon, they can say, "I'm not coming in."

Hon Mr Mackenzie: Under our law, if they are a retail employee, they do not have to give any justification at all. They can just decide they want the statutory right to take the Sunday off.

Mr Sorbara: Until the issue is resolved.

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Mr Carr: First, I very quickly want to thank all the ministers for appearing here today and answering our questions.

The question I have is for Mr North and deals with the tourism criteria. Those tourism criteria are so broad that virtually any municipality could look at that and say, "That includes our area," so virtually we could have every part of the province open if the municipalities so choose. One of the allegations that has been made is that these tourism criteria were so broad to enable the government to get off the hook on its election promise of having a common pause day. First, I wanted to see if that was the reason they were made so broad, so that virtually every place could be open. If not, I would like to see how you came up with

these criteria, what groups were consulted and why you came up with this set of guidelines.

Hon Mr North: I appreciate the question. I would like to say we are not in the business of trying to make criteria broad enough to get off the hook from anything. My job in this particular bill was to develop some tourism criteria that would underline the fact that we were trying to develop something that was workable for the tourism industry from a small business standpoint and which had consideration for workers and which had consideration for what they call the "common pause day."

We feel we have developed criteria that will enhance the tourism industry, giving municipalities an opportunity to decide at a local level, rather than have a paternalistic attitude from the province. We would like to try to do it at a local level, give areas such as the east, the north, the southwest and the northeast opportunities to look at their particular tourism industry, as it may, as I said earlier, diversify and be different from what would be in the southwest as compared to the northwest as compared to the southeast, but still keep them somewhat, as you say, general enough so they could be used province-wide. I believe we have come up with criteria that are general enough to be province-wide but still specific enough so that municipalities can administer them within their own municipality.

Mr Mills: My question is for the Minister of Labour. What I would like clarified is that if an area is designated under the tourism criteria and included in that area there happens to be the type of establishment that employs a retail worker, even though the area has been designated as a tourist area will that worker still have the opportunity to refuse work as a retail worker?

Hon Mr Mackenzie: They would still have the right to refuse, unless they were in one of the tourist industries themselves.

Mr Sorbara: I have a question that could perhaps be answered by any of the ministers, but I will direct it to the Minister of Tourism and Recreation. This bill, the two bills together, has been described in some quarters as an elitist bill which caters directly to the rich and the affluent and is a slap in the face to the typical, average Ontarian who simply might want to go out and do some shopping on Sunday. I will tell you why that is. If, for example, I am relatively affluent and I have a cottage at Lake Simcoe, on Sunday morning I can get into my car, and on my way up to my cottage I will be able to stop at the most luxurious of fruit markets and grocery stores and do virtually all of my shopping for the week, because I am travelling a distance and I am getting into a tourist area. If, on the other hand, I live under much more meagre circumstances in downtown Toronto and do not have any way of getting out of downtown Toronto on Sunday, you are going to close all the stores I might otherwise have done my shopping in, even if I happen to be working the other six days of the week.

Why is it that we have made this distinction in tourism? We acknowledge, of course, that most of the tourists to whom you are catering are local, indigenous Ontario tourists, that is, people who are driving from, let's say, Sudbury to

Sault Ste Marie for the weekend, or cottaging or visiting downtown Toronto for the weekend, or something like that, people who have money to spend. But the rest of us, the rest of the people of the province, are going to find that the stores in their neighbourhoods are going to be closed. Do you think that is an appropriate distinction to be making in 1991 in Ontario?

Hon Mr North: First, I think it is a distinction you are making. I do not think it is a distinction—

Mr Sorbara: It is a distinction people are making when they read your bill, that the stores in their neighbourhoods are going to be closed and the stores in the places that are inaccessible to them are going to be open.

Hon Mr North: Perhaps I can clarify that. We have an opportunity here for municipalities to decide within their own municipality an area they would decide is a tourism area. They have an opportunity to decide the stores that should be open and the stores that should not be open.

Mr Sorbara: Peter, perhaps I can just stop you for a second.

The Chair: Perhaps you would allow him to finish his response, Mr Sorbara.

Mr Sorbara: Tourism implies that you go from A to B, not that you go around the corner, and that you have the money to be on vacation or touring.

Hon Mr North: I understand perfectly what you are saying. If you use Metro as an example, there are various ways in Metro to use transit to get to other locations in the province. I wonder if you—

Interjection

Mr Sorbara: My colleague says, "Take the subway to Collingwood."

Hon Mr North: I wonder if you are saying that what we are doing is eliminating the poor from travelling or eliminating the poor from shopping.

Mr Sorbara: What I am saying is, if I am not rich enough to be a tourist on Sunday I am likely not going to be in an area where I can do some shopping on Sunday, and if I am wealthy enough to be a tourist, then I probably will be, or if I want to be, I can make arrangements to be.

Hon Mr North: My understanding of the bill, and perhaps it is different than yours, is there is an opportunity for each municipality to have certain segments of its area, core or east or west, whichever you prefer to call it, open under the tourism criteria.

Mr Sorbara: Yes, if they comply with your tight tourism guidelines.

Hon Mr North: If they comply with the tourism guidelines that have been put in place, the criteria that are set. I think most people will have an opportunity, as you say, to shop or purchase what they need in various locations. There are going to be stores that were open before these criteria were put in place that will be open afterwards. Those are convenience stores and such.

Mr Sorbara: Becker's where the milk is the most expensive and the orange juice is the most expensive. Again, you are making a distinction between—

The Chair: Mr Sorbara, would you please allow him to answer your question.

Hon Mr North: I appreciate your concern and I understand you will be able to raise this question in a number of different locations in the province and perhaps you will give us some information and we can work on clarifying it for you.

Mr Sorbara: That would be great. That is a good idea.

Mr Carr: I have another question for Mr North. It is kind of interesting that he says he wants to leave it up to the local people to decide, because our friend the Solicitor General, during the last hearings, said that was taking the chicken way out. I notice the Solicitor General does not have his little mask on, that little chicken that he took around with him, this time. Actually, I asked him if I could borrow that, but I guess it is long gone.

One of the questions I have relates to the classification of businesses by using the square footage. I went to a press conference this morning and heard where that will probably make it open to a legal challenge that we are discriminating against certain groups. One of the larger groups this morning said that it will more than likely be taking this legislation to court and saying that what you have done is something it feels discriminates against it. I wondered why that was put in there, why the difference in footages. If you are talking about tourism exemptions and so on, how did that come about? What was your rationale for putting in the different sizes like that?

Hon Mr North: I was just having some discussion. That was not a decision, I would say, that was come by easily. There was a lot of discussion that centred around square footage, workers, a lot of things, and some very difficult decisions were made. We felt that to use criteria based on square footage was reasonable. There was an opportunity for smaller stores and larger stores, based on the tourism criteria at the first level, to be open. When you come to the second level of more stringent criteria, I guess it gives larger stores that are in fact tourism based, tourism oriented, dealing specifically with consumers that I would say are tourists—they will still have the same opportunity, so I do not think it is discriminatory in that sense. If it is based on tourism it will in fact be open.

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Mrs Haslam: This is very interesting. I was a sub on the justice committee and I am learning that what you do is preface your question with the background, depending on whether you are running for anything or not, how long you talk. I find it—

Mr Poirier: You're learning.

Mrs Haslam: Not me. I want to talk again to Mr North about tourism, because it is an area I find very applicable to my own riding. I appreciate what Mr North has done for tourism because I think it is very important, especially in my riding. I want to look at the minimum fines for the violations and I wondered if there was a possibility that, should the committee decide we did not feel those were strong enough and we brought back some other recommendations—or how you came to that type of fine. I know

I have been discussing fines. The second part to my question is, will these fines be applied to employees or someone who has been admitting the public into a particular business?

Hon Mr North: I am going to do something rotten to you.

Mrs Haslam: Never.

Hon Mr North: I am going to pass this question to Mike, if I can, because that is not my bailiwick, so to speak.

Hon Mr Farnan: First of all, on the question surrounding the fine, the determination and the proposal before the committee has stipulated fines. You ask the question, can the committee come back with recommendations? I suggest this is an active listening committee. This is a very tough issue. There is a lot of controversy around a whole variety of clauses within the legislation. We have given it considerable thought and we have presented what we believe is a reasonable piece of legislation, legislation we can be proud of.

What is the committee process about? You are going to tour the province, you are going to listen to delegations and it is meaningless unless in listening to those delegations there is the possibility of change. As I pointed out in my presentation at second reading, the principles of the legislation are not negotiable. The fact that there would be a common pause day that would strengthen family and community values is not negotiable. The fact that we want to protect retail workers is not negotiable. The fact that we want to enhance tourism through a tourism exemption is not negotiable.

But as to details of the legislation that have been raised, I think the committee has a responsibility to listen, and I would point out to my friend Gary that the chicken is alive and well and sitting on my desk. As we went around the province during the last hearings three years ago, I had a sign tied around the neck of the chicken that read: "We're not deaf. We're just not listening to you." That was the attitude of the previous government. "We're not deaf. We're just not listening to you." We went through the process and it was cast in stone. What I am saying to this committee is that indeed we expect this committee to involve itself in an active open process, to listen carefully. I certainly will be doing the same thing and I suggest to you that the possibility remains for fine-tuning of the legislation in areas such as you have pointed out.

Mr Poirier: I seem to recall that you said the municipalities might retain the right, or will retain the right, to refuse a tourism designation to a business, even though it does seem to meet all the minimum requirements for it to be so designated. Did I hear correctly? That being the case, I seem to recall that in the days of the previous Tory administration the law was also partly based on the tourism designation and we know where that got us. It seems to me you are coming full circle and I can just see the great debate and discussions, the great core debate as to which businesses will be awarded a tourism designation and which ones will be designated and accepted by each municipality. In one municipality a certain type of business may be designated, whereas in the municipality next door it may not. This seems to me, if I can paraphrase your

great expression, Bob, to provide the power to blow the bloody dossier all the way to hell.

As Minister of Tourism and Recreation, sir, do you not see a hell of a mess coming up with that particular type of provision?

Hon Mr North: I look at this bill from the tourism aspect, as you have just described. What I see and what we tried to develop was an opportunity for tourism, an opportunity for tourist operators and municipalities, and a stronger interest, perhaps, from chambers of commerce and from local business. I see an opportunity here for the enhancement of the relationship between those people, and also between operators and labour and, again, business.

My feeling is that, sure, the opportunity is there. There is no question it is a challenge. I think if we can get in, go through the committee hearings, have an opportunity to get good, solid information through committee hearings, take it back and finish the development, finish our work, and come up with something through which we as a ministry have an opportunity to work with the municipalities and with the operators, we can overcome, we hope, a lot of these barriers. We would perceive that municipalities look at tourist operators as a source of provincial revenue and as a source of revenue in general for the area.

There is certainly an opportunity here for the ministry to develop a stronger relationship with the municipalities and for the operators to develop a stronger relationship with the municipalities. There will have to be some give and take; there is no question about that. I will say, in all fairness to your question, that there is the opportunity to challenge.

Mr Poirier: And that can go on for quite a long time, for years to come?

Hon Mr North: I cannot disagree with you, sir.

Mr McLean: Section 2 of your bill lays out the criteria for establishing a tourist area. The city of Orillia, the town of Collingwood and many others have passed bylaws now to have Sunday shopping with the approval of the chamber of commerce, which indicates that they support shopping in that city or town for every business. Will that still qualify under Bill 115, that those councils can pass bylaws with a public meeting which meet the criteria you have set out and that every business in that town which is tourism-based would be able to open?

Hon Mr North: There are a couple of different situations here. From the information I have, one situation is that bylaws that are passed by June 4, 1991, the date the bill was introduced, will be repealed on the date the bill comes into effect.

At a second juncture, municipalities that designate certain areas or can substantiate the perimeter of the area that they have designated through public meetings, through criteria, can in fact open a broad sort of area. The question will remain: Will all the businesses that are within that area be able to open? Those will have to go through the scrutiny of the criteria and will already have gone through the scrutiny of public meetings. That is the best information I can give you, sir.

1400

Mr Fletcher: My question is for Mr Farnan. I am just wondering, after what you were saying about the previous bill and the previous legislation, exactly how different is this from the Liberal legislation?

Hon Mr Farnan: Let me link your question to a comment that was made in putting forward a question just a moment ago. The presumption was made by Jean that there was no difference. Of course the reality of the matter is that this legislation is significantly different.

If you look back at the history of the legislation surrounding the common pause day and go back to the Conservative version, they did have a tourism provision within the bill, but there was absolutely no definition of what tourism was, so in fact it was relatively useless and provided no guidance, no direction.

During the more recent administration, that of the former Liberal government, its legislation simply passed on this issue to the municipalities. Gary is quite correct that the then Solicitor General had said this was the chicken way out, that to hand it over to the municipalities was the chicken way out. I still agree with that. The reality of the matter is that when you give this issue to the municipalities with an absolutely unbridled and unrestricted opportunity to have the area wide open, certainly that is not conducive to a common pause day. I think the principle we are attempting to enshrine here is that there be a common pause day. Not only have we accepted the fact in going back to the tourism exemption; we have actually undertaken the very difficult process of making those definitions.

The Minister of Tourism and Recreation and his staff are to be commended for the extraordinary work they have done in this area: very difficult, very challenging. There is no doubt that as you tour the province you will receive considerable input on the definitions of "tourism." Of course, that is precisely what these hearings are all about, that we do get some input. In the course of the hearings there may be some very positive and constructive refinements that can be made. As I have already indicated to the committee, that sits very comfortably with this government, which wants to take an open approach and an active listening approach to these hearings.

Mr Daigeler: Mr Chairman, a quick question to the Minister of Labour, since he has to leave.

The Chair: Do you have time for?

Hon Mr Mackenzie: This is what I have been waiting for, the wage protection stuff that has started, but I will hang on for this question.

Mr Daigeler: Under the previous legislation, both Liberal and the Conservative, how many cases have there been of people who were forced to work on Sundays and have lodged a complaint about it? How successfully generally has that worked before, to the knowledge of your ministry? I do not know whether you want to answer that or have someone else within your ministry do so.

Hon Mr Mackenzie: I will answer part of it and I may have Mr Saunders answer the rest. There have been a fair number of calls, but very few actual charges or complaints

laid. A lot of it was the reasonableness of the request, which was very difficult.

Mr Daigeler: There were no specific complaints?

Hon Mr Mackenzie: There were only a small number that actually ran to complaints. Under current provisions concerning the right to refuse an unreasonable assignment of Sunday work, a total of 16 claims have been filed with the ministry. Of these, six have been sent to the referee. Two were upheld by the referee in favour of the claimant, one was denied and one claim was settled prior to the decision. The number of calls the ministry had over the right to refuse was considerably larger than that. The reason for my calling the previous legislation and the authority you had under it not worth the powder to blow it to hell is the fact that proving something was an unreasonable request was extremely difficult.

Mr Sorbara: With respect, there was a *prima facie* presumption in the law that it was unreasonable.

Hon Mr Mackenzie: That is your response, not the way I was looking at it.

Mr Sorbara: No, that is what the law states. You are wrong on that, Bob. Sorry.

Mr McLean: I have a final question for the minister. It is just a simple question with regard to tourism.

The Chair: Mr North, do you have time?

Hon Mr North: Yes.

Mr McLean: Mr Michener is the chief executive officer of Tourism Ontario. I just wanted to know if he had any input into this meeting with you and into this legislation.

Hon Mr North: We had an opportunity to meet with a lot of different groups. This is my assistant, Marion Joppe.

Dr Joppe: Tourism Ontario definitely was one of the groups we have consulted with. We have also consulted with other tourism organizations, but in the original go-arounds, consultation into possible criteria for tourism exemption, they were definitely consulted.

Mr McLean: My question is, did you meet with Mr Michener?

The Chair: Excuse me. Could you introduce yourself for the purposes of the reporter.

Dr Joppe: I am sorry. The name is Marion Joppe.

Mr Sorbara: And you are?

Mr McLean: She is an assistant to the minister. The basic question is, did you meet with Mr Michener to have input? That is what I wanted to know.

Hon Mr North: I have met with Mr Michener a number of times on a lot of different issues; I will not say specific to this issue, but on a lot of different issues.

The Chair: A couple of people here have requested an additional question as well.

Mr Lessard: I wondered whether anybody else had a final question for the Minister of Tourism from our party, because my question is for the Solicitor General. I see that everybody else has asked one more question to the ministers who are leaving.

The Chair: Mr O'Connor, was your question for the Minister of Tourism?

Mr O'Connor: Actually, I would not mind if the minister could please answer one more question. I would just like some response towards the municipality. The act applies to the upper tier of government in a regional government where in a tourist area the whole region of government would not be affected. Why has the decision-making been left up to the upper-tier government?

Hon Mr North: I will say to you very frankly that this is a question that has been asked by Tourism Ontario; it has been asked by a number of different people. We are going to have to, again, go through these meetings and listen at length to what has been said and try to work out, by the time we finish with the bill and regulations, something that is amenable to everyone, so to speak. As frank as I can be with you, it is a question that has been asked by a lot of different people, and I am hoping we can come to some resolution of it.

Mr Sorbara: My question is for the Solicitor General. I understand the beleaguered Minister of Tourism has to leave us now. We regret to see him depart.

Hon Mr North: Thank you.

1410

Mr Sorbara: We will have other questions later which support the proposition that this is a bill that favours the rich and patronizes the poor, but my question at this point for the Solicitor General has to do with his assertion during his opening remarks that this bill was the subject of broad consultation on the part of his ministry. I direct the attention of the Solicitor General to the draft regulations which he submitted as part of this bill. In clause 3(1)(4)

he provides that an application of a business entity to come within the tourism exemption and therefore have the right to be open on Sunday must get the Good Housekeeping seal of approval from a chamber of commerce or a similar bureau. I will quote the section:

"If there is a chamber of commerce, a convention and visitors' bureau, or a similar organization serving the area being considered, a letter indicating that the organization, or if there is more than one of them, one of those organizations, supports the opening of the retail business establishments in that area on a holiday."

The local chamber of commerce, which is a voluntary body in a community, is set up, by virtue of this draft regulation, as the arbiter as to who gets to open on Sunday, because if you do not have that Good Housekeeping seal of approval from the local chamber of commerce, then your application is not complete and you do not qualify. This puts the chamber of commerce right in the middle of the fiercest retail debate that is going on in our province right now, save and except the debate on cross-border shopping.

The executive director of the Ontario Chamber of Commerce wrote to us, wrote to the Premier and wrote to you after this measure was introduced by you and said that he had not heard one word from you or your ministry about setting the chamber up as the decision-making body as to who should and should not open.

The Chair: Do you have a question?

Mr Sorbara: Yes, I do.

What is even worse is that since the bill was introduced, you still have not contacted the Ontario Chamber of Commerce to ask whether it would be interested in taking on this terribly delicate role. How is it, I ask the Solicitor General, that you have put them right in the middle of the debate as to who should and should not open in a community, and you do not even have the respect, never mind the determination to consult, to ask them whether they are interested in that role? By the way, they are not interested and they will not do it. Why have you not contacted them since you introduced the bill to at least begin discussions about what you might be asking them to do under clause 3(1)(4) of your draft regulations?

Hon Mr Farnan: I want to add a comment to this. As it is an area that falls under the tourism section, I am going to ask the member of the Tourism ministry to respond.

Mr Sorbara: I am sorry. If I just might interject, these are draft regulations under the Retail Business Holidays Act and you are still the Solicitor General responsible for the Retail Business Holidays Act.

Hon Mr Farnan: Believe me, I am going to respond to you in some considerable detail. I am going to allow the representative of the Ministry of Tourism and Recreation to make a contribution.

Dr Joppe: If I may just read the first sentence of clause 3(1)(4) in the regulations, it says, "If there is a chamber of commerce, a convention and visitors' bureau, or a similar organization serving the area." It does not say a chamber of commerce must. If a chamber of commerce wishes not to help the retail business establishment making an application, any of the other business organizations in the community or in the area that applies for a tourism exemption is equally eligible to support that application.

Mr Sorbara: I am sorry. My question was, why did you not consult with the chamber before incorporating it in the legislation? Their position is that if they are forced to do this, there will not be any chambers of commerce because that sort of decision will tear them apart.

Dr Joppe: I would suggest that they are not forced to do anything in this regulation.

Mr Sorbara: They are already making a decision if they refuse to do it, because if the entity, like the local craft jewellery store, does not get the seal of approval and does not meet the criteria, it will not open. Even by refusing to participate in this silly little scheme, they are making a decision because they are refusing to do it. My question is about consultation.

Hon Mr Farnan: The member continues to make a fundamental error in presenting his question.

Mr Sorbara: No, I am not, Mike.

Hon Mr Farnan: In both the initial question and in his interjection following he used that the chamber did not want to be the decision-making body as to who opens or closes. In fact, this legislation does not give the chamber of commerce that kind of power. It has been very clearly pointed out that any one of a number of groups can lend its

support to an application. However, the authority to grant or not grant an exemption lies with the municipality.

As a former alderman of the city of Cambridge, I can tell you that I can hardly recall an issue that affected the economic life of my community in which the local chamber of commerce did not have a very substantive presentation to make to council. I admired them for that. I certainly admired the chamber of commerce for its involvement in local communities, contributing its expertise, contributing its sensitivity to local community needs.

Mr Sorbara: On a point of order, Mr Chairman—

Hon Mr Farnan: Mr Chairman, if I may be allowed to finish, I would be very grateful.

Mr Sorbara: I am sorry. I do have a point of order. I asked a question about consultation with the chamber. I do not need a lecture on the important role the chambers play. I want to know about consultation.

The Chair: That is not a point of order.

Hon Mr Farnan: The member asked much more than the area of consultation and made many insinuations in his question that need to be rectified. I am in the process of doing that and I would certainly appreciate it if the member would allow me to complete my comment.

Mr Sorbara: I would like you to begin to answer the question.

The Chair: Mr Farnan, please do so.

Hon Mr Farnan: As I suggested to you, local chambers have expertise, have knowledge like other groups. It is my experience that chambers of commerce are very community-minded and are willing to make that contribution. Should an individual chamber not wish to be involved in that process, there are other groups. Indeed, during the process of these hearings I suspect we will have representatives of chambers of commerce who will come forward and make the case that Mr Sorbara has made.

However, the reality of the matter is that within the legislation is an effort to be sensitive to the local community. When we go to the chamber of commerce we are saying to it: "We want to work with local communities in order to do what is best for that community. As a chamber, you have your finger on the pulse of the community; you have your finger on the needs of the community; you have a contribution to make."

My own belief is that as we become more familiar with the legislation people will feel more comfortable, but certainly I am very interested in listening to the dialogue that will take place during the committee consultation. It is an area we can discuss.

Mr Carr: Just a general one on your statement of June 4: You said, "Our purpose is to provide for a common pause day for Ontario." I will read a couple of comments I have read in some of the papers:

"Sunday Business As Usual Under the New Law.

"The new provincial legislation on Sunday shopping shouldn't change things in Sault Ste Marie. It should allow Sault Ste Marie to stay open like it has in the past four years."

The mayor of Windsor says, "'All of Windsor would qualify as a tourist area allowing stores to open on Sunday under the Ontario government's proposed law,' said Mayor John Millson."

You say your purpose is to provide a common pause day, and yet mayors of two rather large municipalities say that will not happen, that there will not be a common pause day, that in fact they will be open, business as usual.

My question is this: How do you reconcile these differences to the public, that on the one hand you say something and yet other major, well-thought-of people in the community say something else?

Hon Mr Farnan: That is one of the dangers when we take little pieces of the puzzle in isolation. When we talk about a common pause day and leave that in isolation, then of course you run into difficulties.

The purpose of this legislation is to produce a common pause day that will strengthen families and communities, protect retail workers and enhance tourism within the province, which we recognize as a significant cornerstone of our economy. Obviously, there is a balance there. If you were to take the common pause day and close the lid, everything closes, but that is not what we are talking about. We are talking about a balance in terms of protecting retail workers, allowing the opportunity for legitimate tourism exemptions. Of course, there has been the occasional headline in the newspaper that gets things out of whack.

1420

Mr Lessard: I just wanted to tell the Solicitor General that as a member of this committee I plan to be an active listener and make some constructive criticisms at the end of these hearings. However, there are some fundamental principles that I realize are not going to be changed, one being that there will be a common pause day for the citizens of Ontario.

As a member from a large border city, that being Windsor, one of the arguments or questions I can anticipate is that there need to be stores open there so they can compete with stores that are over the border. It is a community that has suffered the impact of cross-border shopping to a great extent. I wonder if the Solicitor General can address those concerns that I anticipate we will hear in the city of Windsor, that stores need to stay open on Sundays in order to compete with stores in the city of Detroit.

Hon Mr Farnan: I think it is very clear that there are two separate and distinct issues. I had meetings with the mayor of Windsor concerning this matter and he recognizes that fact. The seven-day-a-week, cross-border shopping issue is one issue. I think we have to be sensitive to the concerns of communities that are being affected by cross-border shopping, and this government has demonstrated that by involving itself in what we would call trilateral discussions with the federal government, with the local government and with the provincial government. But everybody is in agreement that a lot of the levers that most significantly affect cross-border shopping—the high interest rates, the GST, the failure to collect the provincial sales tax—lie within the hands of the federal government. There is no doubt that there has to be an ongoing determination by all

politicians at every level to address real concerns of border communities.

In terms of the issue of a common pause day, the reality of the matter is that in British Columbia, for example, when there is wide-open Sunday shopping, there has been, I believe—I stand to be corrected—an increase by 400% in the cross-border traffic in terms of shopping, so they are two distinct factors. I think we would all accept that. Certainly the mayor of Windsor accepts it and accepts the fact that there have to be specially addressed programs geared to the cross-border shopping issue, but you know, this is the issue of common pause day legislation as it affects the entire province.

Mr Daigeler: My question is on the same point. I was going to ask you how you react to the link between cross-border shopping and the Sunday shopping legislation and you addressed it a little bit. However, you are saying that there may have to be some special arrangement. Are you referring also to special arrangements with regard to your legislation? Are you open to that? After hearing from the public on this matter, are you willing to make certain exemptions with regard to areas that are close to the borders, or were you referring to the broad government initiatives.

Hon Mr Farnan: I was indeed referring to the broader initiatives that refer to the border communities, but let me point out further that in the legislation we talk about not only maintaining tourism, but you will note the phrase in the legislation “to maintain and promote tourism.” Tourism in Ontario is in excess of \$15 billion a year. As I pointed out already, it is a significant cornerstone of our economy, and that is why we recognize this as a significant exemption.

Mr Daigeler: So as a follow-up, what you are saying—

Hon Mr Farnan: Let me complete this thought. The same opportunities exist for border communities to take advantage of the legislation by enhancing their tourism, by developing within their areas legitimate tourism exemptions. I think any community, be it a border community or any other community in the province, but certainly a border community, has good reason to be constructive and creative in developing that tourism exemption.

Mr Daigeler: I see. So you are proposing they create tourism attractions so that they can in fact be open on Sundays and compete with the United States. Is that what you are saying?

Hon Mr Farnan: I think the way the legislation is constructed, it is designed to allow legitimate tourism exemptions to exist. I think all of us in Ontario who are concerned about our economy in a very competitive market, knowing that tourism is a competitive market and particularly competitive if you are in a cross-border community, want to enhance any advancement that would give a competitive edge to our border communities. I think that goes without saying.

The Chair: Mr McLean.

Mr Daigeler: I find this quite interesting and would like to refer to this. This involves what the minister just said.

The Chair: Thank you. Mr McLean.

Mr Daigeler: Mr Chairman, it has been tradition in these meetings that the opposition be given a reasonable opportunity to ask questions.

Mr Fletcher: On a point of order, Mr Chair: We agreed at the beginning that it would be one question and one question only and that we would go in rotation. I think the member was here when that was stated.

Mr Daigeler: I think it has been the tradition, unless the member opposite would want to change that and he had better be prepared to back it up, that there be flexibility towards the opposition members, especially when the ministers are here for a relatively short time. There have been flexible arrangements, with the two ministers sitting here for almost an hour.

The Chair: Mr Daigeler, you asked two questions and there was a previous agreement to rotate questions. Mr McLean.

Hon Mr Farnan: I would be happy to meet with the member after to clarify that.

Mr McLean: Minister, let's call a spade a spade. If the city of Windsor wants to pass a bylaw to allow Sunday shopping year-round, then there is no common pause day in the city of Windsor. Would that be right?

Hon Mr Farnan: The city of Windsor can in fact pass a bylaw under the current legislation that will open it wide open. Under this particular legislation it would have to do so bearing in mind that it would have to be addressing the criteria contained in the legislation, specifically the tourism criteria. It would have to be, in their view, a legitimate tourism exemption, and for those stores that did not meet certain specifications, they would have to be dealt with on an individual basis. So I would say even if it took the approach you suggest, there would be a lot of individual applications that they would have to deal with.

1430

Mr Fletcher: I heard from the member opposite about this bill protecting and benefiting the rich. Would you agree that a bill that gives workers the right to refuse work is one that benefits the rich? As number of people in Ontario I know who travel around the province go camping, go to a trailer, which is usually called the working person's cottage. Again, is your bill one that is going to benefit just the rich?

Hon Mr Farnan: I think you have hit a real nerve when you ask the question and I think you have in fact answered it. The reality of the matter is that retail workers are very much unprotected, have to a great degree received remuneration that has not been very—not a particularly well-paying occupation; let me say that. It is a group that is significantly vulnerable, in many instances is non-unionized and has little protection. I would agree with you that you are talking about a group of workers who certainly would benefit from this legislation.

I would point out two things: There has been the presumption as the questioning has taken place today that people simply want to shop. When I talk to people, there are many people who say to me, “I do not want to work on Sunday,” and there are other individuals who suggest that they would like to have time with their family. It is not a

black and white issue, as some members of the committee have tended to present the opening case. Neither should any member of the committee presume that it can be a black and white issue.

The reality of the matter is that there are many people who will feel this legislation is too wide open. Other people will feel it is too restrictive. There are different shades of opinion within the province. The reality of the matter is that I think the legislation does move towards a balance with a certain sense of addressing significantly important principles that we believe the majority of the people of Ontario endorse, and those are a common pause day, protection for workers who need protection and the recognition that tourism is an important aspect of our economy.

Mr Sorbara: I want to deal with the assertion from the member for Guelph and the minister that this is very great news for retail workers. This, I reiterate, is a bill that favours the rich and patronizes the poor.

Let us take, as a preamble to my question, the assertion that for the first time retail workers will—I am quoting the minister now—“be guaranteed 36 hours of rest in every seven days.” I want to tell the minister that if his government really wanted to do something, he could figure out a way to guarantee workers in this province 36 hours of work in every seven days. That is what workers are looking for—an opportunity to work full-time.

You cannot fool me on this one. I was the minister for two years. The real issue for retail workers is that they are being forced to work part-time. They cannot get 36 hours of work. They are split-shifted and they have all sorts of other problems. Their major problem is not, I reiterate, that they are unable to get 36 hours of rest in every seven-day period.

Let me just point out another example to you.

The Chair: Do you have a question?

Mr Sorbara: Yes, I do. Your legislation continues the distinction for drugstores between those that are under 7,500 square feet, which will continue to be allowed to be open, and those like Payless and Hy and Zel's, which are over 7,500 square feet, which are not going to be open. I suggest to you, sir, that those are the very discount drugstores you are going to require to be closed with your legislation, those where the poorer in this society can go and get real value. With the powerful entities in our society, like the Shoppers Drug Mart chain, all of its stores are going to be allowed to remain open. It is your legislation that is going to do that. It is your legislation that is going to make the choice.

How is it that in creating the common pause day the reality is that those of us who are affluent are going to have Ontario as our playground on Sunday, with much less traffic, and those who do not have cars are going to stay home? For them the province is closed down, but for those of us who are affluent, who can afford to be tourists, your common pause day makes Ontario our playground for a day.

Hon Mr Farnan: There are two aspects to the question. The first aspect, again, is when a member takes a narrow window in examining the issue. The member talks as though you can only shop in a large discount store on Sunday.

That, of course, is not the truth. The reality of the matter is you can shop in these stores all week.

Mr Sorbara: The thing is the expensive stores are open, but the stores where people of less means have to shop are closed, and you are doing that. So the presumption again is based on a false premise. Certainly, we are looking at a common pause day—

Mr Sorbara: For whom?

Hon Mr Farnan: —so that it will strengthen families and community values in Ontario, so that it will protect retail workers.

The member may want to take the point of rich and poor. There is a reality in life, and I do not dispute for one moment that there is a certain lifestyle. The member talks about going off to his cottage and enjoying the drive and stopping in a residential tourist area. Other people may have to do some shopping in a designated tourism area closer to home, and many people do that. Many people visit a flea market. We all try to do the best for our families in terms of providing them with a quality of life, but the key essential in providing that quality of life for a family is that all the members of the family have the opportunity to share it together.

It is one thing to be able to say, “My son will be working here and my daughter will have a part-time job here,” or whatever, “and the family will work a cycle of seven days a week.” I think there is a reality in this that suggests the purpose of the common pause day is to support family and community values, not simply dollars. Dollar issues are important, but there are other principles at stake. That is why when I talked to Gary earlier I said that I do not think it is possible or fair to look at this legislation and take one piece of the puzzle and say, “We'll stick that piece over here and we'll just examine it,” and then suggest that in examining it we can be critical. You have to put the pieces of the puzzle together. Then you have a balanced piece of legislation and then criticism is fair.

That is the kind of criticism I think I am most open to respond to, where people look at the legislation in a fair manner, look at the balance we have tried to achieve, look at the partnership we have tried to achieve with the municipalities, and then, if you are making constructive criticism of that balance and that fairness, I think your active listening during this process will help you to come forward with constructive suggestions.

Mr Carr: One of the concerns I know you have about the present legislation is how to protect the workers. I was reading another article where it said, “The Ontario government will have trouble enforcing the guarantee that a retail worker can refuse work on Sunday,” admits Solicitor General Mike Farnan.” I do not think this is a case of the headlines being wrong, because I happened to see the Focus Ontario show where you basically said that you were working to strengthen it. I guess that was back in June.

Hon Mr Farnan: I have to interrupt you. If you say you watched Focus Ontario, then you know that—

Mr Carr: That you agreed with them. You said there is no question about it.

Hon Mr Farnan: You know that the thrust of the program—you want to isolate one line in that program.

Mr Carr: So you are not worried about it. You think the protection for workers is fine. Is that what you are saying?

Hon Mr Farnan: Let me finish. If you want to isolate one word, that is fine.

The Chair: Perhaps Mr Farnan—

Mr Carr: Yes, finish his answer, okay.

The Chair: Then you could respond to him and correct his assumption.

1440

Mr Carr: I will go further. I will say that if you disagree with that, then obviously you think the protection is fine and you are not going to do anything. The question I had, in light of the fact that you are concerned about the protection and in light of the fact that this was back on June 8, is whether you have come up with any other ideas since that time to strengthen the protection for the workers, or are you satisfied that that is it, the protection is there. If you disagree with what you said on Focus or if you agree, it is up to you. If you do not think there is enough protection, what are you going to do to increase it, and if you do think there is enough protection, then I guess you are not going to do anything. I will leave it up to you. Go ahead.

Hon Mr Farnan: I would like to repeat what I have said, that of course I think we have to accept the fact that there will be difficulty in enforcement, but I want to reiterate very clearly that because something is difficult does not mean you do not do it. This would be ludicrous. We could have no progress in society if you said, "This is going to be hard to do; therefore we are not going to do it." The reality of the matter is that you can look at any piece of legislation and come to the conclusion and say: "Should we remove apartheid in South Africa? That is going to be difficult to do." Does that mean you do not do it?

Let me suggest to you then, as the Minister of Labour has pointed out, that there are provisions within this legislation that go beyond what was there previously and there is a very firm commitment, a very firm political will on the part of the government that the employment standards provisions of this legislation will be enforced. Workers are going to know they will be enforced, because this government will enforce them. Employers will know they are going to be enforced because this government is going to enforce them. When employers and employees understand that this government is determined to enforce those aspects of the legislation, I think they will work constructively to that end.

Mr Mills: Minister, the thrust of this bill is the protection of the retail worker, so I am applying for a job in a retail store—

Mr Carr: You are resigning your seat, Gord?

Mr Mills: Not yet. The owner of it comes to me and says, "Gord, I want you to promise me that you're going to work on Sundays." I need a job and I say, "Yes, I'm going to work on Sundays." For the first Sunday that comes up, 48

hours before the Sunday I say to my employer: "Guess what. I've had a change of mind. I don't want to work on Sundays."

Mr Poirier: You wouldn't do that, Gord.

Mr Mills: I would not. This is a hypothetical situation to understand this bill better. Would I then, as that employee, have the protection of the retail workers act? Even though I had agreed to work, can I give you 48 hours' notice and get out of working? Would I be safe with my job and would I have the protection?

Hon Mr Farnan: I am going to ask the representative of the Ministry of Labour to answer the question.

The Chair: Could you identify yourself?

Mr Flanagan: My name is Brendan Flanagan. I am with the policy branch of the Ministry of Labour.

In answer to the question, an employee is free to refuse Sunday work with 48 hours' notice once the person has been hired. Before they are hired the Employment Standards Act does not apply to them. Generally speaking, employers and employees are free to arrange voluntary Sunday work and in most cases both parties will agree to a voluntary arrangement. Where the employee wishes to exercise his or her right under the act, having been hired, then he or she is free to do so with 48 hours' notice.

Mr Mills: Excuse me, Mr Chair. It is a follow-up. Is it not allowed?

The Chair: Mr Daigeler.

Mr Daigeler: I did not say anything. I was quite prepared to grant you your follow-up, even though I am a little bit confused about the questions you are asking. If I am not mistaken, you are the parliamentary assistant to Mr Farnan, are you not?

Mr Mills: That is right.

Mr Daigeler: In that case, I would expect you to provide the answers, rather than ask questions. I would expect, and I ask the minister, over the hearings, will Mr Mills be representing you and listening to people, or will you be travelling with us?

Hon Mr Farnan: I will not be travelling. There will be members of my staff travelling. I would like to put forward the offer to the committee that my ministry and my staff want to facilitate the work of the committee as much as possible in the sense that if there are some statistics that you as a member of the committee would require—there is a significant database of information that was collected around specific issues that were dealt with in the previous legislation and that re-emerge in some form here.

Mr Daigeler: I certainly expect that staff representatives of your ministry will be travelling with us and will be available for these kinds of questions, but I think in terms of the political representation it has been the tradition that the parliamentary assistant is there somewhat to play the lead role when it comes to questions and policy. I presume that will be the case and certainly I will be addressing any questions I may have to Mr Mills.

Hon Mr Farnan: I would say the same thing, that we have great confidence in the contribution that Mr Mills will make, but I think the reality here has to be that we

want to be open and positive and helpful in this process to every member of the committee. We want whatever information you feel is necessary to do your job. The resources of my ministry are there to try to provide that information.

The Chair: With that point clarified, and Mr Mills having no further ability, after Mr Farnan leaves, to ask questions, do you have anything else, Mr Daigeler?

Mr Daigeler: To Mr Farnan? Yes, actually I have, in follow-up to the previous question, where you said that—

Interjections.

Mr Daigeler: The chairman gave me the floor and, with your permission, I will ask my question.

You answered earlier that there is also interest in providing tourism promotion and that it may be an avenue under which municipalities can pursue tourism exemptions. Would you elaborate a little-bit on this? Would it be possible for municipalities to say, "This area has tourism potential and therefore we should designate it as a tourism area"?

Hon Mr Farnan: The ultimate decision as to a tourism exemption lies with the municipality. The municipality will make that determination based upon the criteria that are eventually worked out and agreed upon in third and final reading. The municipality would have to work towards legitimate tourism exemptions. Now, whether it is a tourism and convention bureau, I think there are always creative ideas at work about developing a local community's tourism potential. If this legislation were to act as an impetus to tourism in the province, I do not think that would be a side-effect I would have problems with at all.

Mr Carr: I too, like most of the other members of the committee, am concerned about some of the workers in this industry. I am concerned for one reason even more so. That is the fact that many of our retail businesses are facing a very precarious situation and many of them are going out of business. The Canadian Federation of Independent Business has called the new rules "a knife between the ribs for small business," because the struggle to meet the tourism criteria will add to the government red tape they already face. What would you say to a small operator of a retail business who is now going to have to go through the process with these various municipalities to get his exemption, and go through the chamber of commerce? What would you say to that small individual running a business that now is facing more government red tape because of your legislation?

Hon Mr Farnan: I believe that many small businesses actually want to close on Sundays. Many small businesses are caught in the tail-stream of the larger stores, department stores, etc, which may be opening. It has been expressed often enough that, "If we did not feel our market share was just being absorbed, we would be quite happy to close." The reality of the matter is that when we had the period when there was wide-open shopping, many small businesses expressed concerns that they were being forced to open against their will and were happy when some of the larger stores decided there was not a profit margin at a particular moment in time and decided to close.

I am sure we will hear a great deal during the course of the committee hearings. I suspect much of it will be in favour of the legislation, although I do not doubt there may be some that will question it and I would like to listen to those people. I am sure you will have input you might want to consider in the final summation.

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Mrs Haslam: It was during the comments of one of my colleagues across the way that this question kind of cropped up. He was talking about the affluent going to cottages and shopping, and then commenting on the poor, the ones who need the drugstores open. To my way of thinking, it is the affluent who have the time and the resources who want to shop on Sunday. It is the poor who end up working on Sunday so the affluent can shop on Sunday.

I really question this idea of "leave the big drugstores open so the poor can shop on Sunday." They are working. They cannot shop on Sundays. The interrogatory part of my question is, I wanted to know if you felt that this proposed change in the legislation would give adequate protection to the retail workers.

Hon Mr Farnan: What is very important is that there has to be the political will. Very clearly, this government is determined to provide protection to the greatest degree possible for workers in this regard. Whether that can ever be totally absolute I think will remain a topic that continues to be open for discussion. The question really is, is it worth protecting workers? I do not think there is any doubt about the answer to that. These are workers who are underprotected, whose benefits are not significantly high, and who have to a great degree to work some extraordinarily difficult hours. Retail workers I think deserve protection, and that is why it is enshrined as a cornerstone of this legislation.

Mr Poirier: As I see a healthy debate coming up inside municipalities, and from one municipality to another, to designate what qualifies and what does not qualify to be a tourist service, are you not afraid this is going to take years of debate, in the courts even, before it is decided which gets that? I honestly try to see a law that will facilitate the designations, but I am sure that for a lot of businesses that want to be designated tourist, it becomes very subjective as to what is tourist or not.

With 839 municipalities across the province, I presume you are going to get quite a broad sector of different definitions as to what is and what is not tourist. How many municipalities have the capability, really, even if there is a will to designate what is tourist, to be able to do this? Once tourist operators see this variety of definitions that will creep up across the province, I presume, if I were in the justice system, I would see a hell of a field day coming up for a heck of a long time in Ontario before the dust settles and you have some kind of clear guidelines, if you ever can have clear guidelines as to what is tourist or whatever. How do you feel about that? Do you really see some short-term solution to all this incredible mess that is about to come up?

Hon Mr Farnan: What we are attempting to do, with the positive contribution of all members of this committee,

is to develop an objective test by which these decisions will be made, and not a subjective test. Obviously, if it is simply subjective, of course that becomes a difficulty. When I suggest to you that this is an open committee that is prepared to listen—perhaps there will be discussion around regulation and around definition—I think that is a very healthy and productive discussion and one in which the community and the public can have meaningful input. To the best of our ability, I think we have to determine objective criteria that can be measuring rods.

Mr Carr: I know some of the municipalities were a little concerned that this is now going to be thrown in their laps. I was reading what the regional chairman from Hamilton-Wentworth said. He said: "Under the criteria that the province has outlined, we'd be hard-pressed not to grant an exemption. This is so vague, practically anyone can qualify." One of the concerns we have is that his region obviously, he feels, is going to be open, and that we might have another region, for whatever reason, that is not.

Are you concerned about the patchwork effect we are going to have, with one region open and one region not open? People will not know. It is going to be a confusing situation for anyone coming as a tourist from another jurisdiction. Are you concerned about the patchwork effect, that we are going to have some places open and some not, and that no one is going to really know? Is that a concern of yours, and if so, how do you see that being addressed?

Hon Mr Farnan: Well, is the glass half full or half empty? The reality of the matter is, would you like to see, as we would like to see, a sensitivity to local communities, to a degree, shaping community life within their borders?

However, we have attempted to bring to this issue a sense of uniformity across the province. The significant difference in this legislation as opposed to previous legislation is that what we have presented are provincial guidelines. Under the current legislation there are no guidelines. Under the old Conservative legislation there were no definitions. New Democrats and this government have stepped in with courage and said, "We will attempt this difficult task of definitions, and we will attempt to build in this sense of some guidelines so we can bring a sense of uniformity across the province."

It is not a small task, by any stretch of the imagination. I think we have gone a long way. I think it is very significant that this was mentioned in the throne speech. It has become part of the legislative agenda that completed first and second reading during the first 10 months of the new government. It certainly is a very clear commitment of this government to common pause day legislation and protection for retail workers, and to support tourism in our economy. This is very different from a patchwork quilt that would exist under the present legislation.

Mr Owens: I think the second question Mr Mills was attempting to ask was around the issue of probationary employees. The Employment Standards Act does not kick in until 90 days have elapsed, and some employers have probation periods even longer. How will this legislation protect that worker in the event that he or she decides he does not want to work on Sundays?

Hon Mr Farnan: Again, I am going to ask the representative from the Ministry of Labour to respond.

Mr Flanagan: Could you repeat the question?

Mr Owens: How will this legislation protect workers who are in probationary periods who do not want to work on Sundays? That is the bottom line. If their probationary period is 90 days and the employer decides he wants the employee to work Sundays and he wants to refuse, is there a method where, prior to probation ending or the employment standards legislation kicking in—how will he be protected?

Mr Flanagan: The employee will have the same rights as any other employee. When an officer is investigating, he can review the situation and order whatever actions the employer should or should not take to ensure the worker can exercise the right to refuse work that this proposed legislation has in it. The officer can ensure that the employee can exercise the right to refuse Sunday work.

Hon Mr Farnan: May we wish the committee well on its travels? I hope they have as good a time as I had when I toured the province.

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UNITED FOOD AND COMMERCIAL WORKERS INTERNATIONAL UNION, CANADIAN REGION

The Chair: We now have a presentation from the United Food and Commercial Workers International Union. Mr Clifford Evans is the Canadian director. We have approximately half an hour. Usually that time is divided up with a quarter of an hour for presentation and a quarter of an hour for the questions which are presented in rotation from the various caucuses. Please feel free to start when you are comfortable. As well, could you please introduce yourselves into the microphone for our recorder.

Mr Evans: Today, making the presentation on behalf of the United Food and Commercial Workers International Union is Tom Kukovica, the service sector director, and I am Cliff Evans, the Canadian director of the United Food and Commercial Workers International Union. We are pleased to have an opportunity to appear before the standing committee on administration of justice to present our views on Sunday shopping and Sunday working.

Our organization is the largest private sector union in Canada, representing some 180,000 members in this country. Our members are employed in more than 20 sectors of the economy, including the retail, service, meat packing, food processing, brewing and beverage production and distribution, fishing, general merchandise, health care, shoe and leather and banking industries. We represent more than 70,000 working people in Ontario.

In addition, we are affiliated to the Ontario Federation of Labour, which represents more than 800,000 workers in Ontario. The OFL fully supports the efforts and views of UFCW Canada with regard to the matter of Sunday shopping and Sunday working. We believe our organization and the labour movement in general appreciate the government's efforts in bringing forth legislation aimed at enshrining a common pause day in Ontario and providing the needed restrictions on both Sunday shopping and Sunday work.

While this proposed legislation is an important step forward, the UFCW has five main areas of concern with the proposed amendments to the Retail Business Holidays Act. These concerns are related to the intent of the act itself, the municipal option, drugstores opening on Sunday, enforcement of the legislation and the definition of a "retail business." In this presentation we will present our members' views on each of these concerns and we will also address three other issues related to that of Sunday shopping and Sunday working.

The intent of the Retail Business Holidays Act is the first area of concern. The present act fails to recognize the right of workers to a common pause day. The proposed amendment in the legislation recognizes the need and importance of a common pause day in part I. The wording in the proposed amendments such as "shall take into account" and "should be maintained" is, however, too general. This achieves only a watered-down version of what is required.

Our recommendation is that to ensure that the intent of the act is consistently followed, the amendment of subsection 4(2) regarding municipal power should read, "The council, in passing a bylaw under subsection (1), must maintain the principle that holidays are to remain as a common pause day; that is, to ensure that they remain days on which most businesses are not open; days on which most persons do not have to work."

The second area of concern deals with the municipal option. The legislation implemented by the previous Liberal government provides that municipalities have full control over the decision to allow stores to open on Sundays or other holidays. There are no regulations, no criteria and no principles to guide municipalities in the making of decisions. The will of municipal councils simply predominates. The provincial government has no way of stopping wide-open Sunday shopping and working. One only has to look at the high rate of applications for exemption that are presently in the hands of municipalities for proof of the extent of the problem.

In the amendment as proposed, the decision-making process would remain in the hands of the municipalities. In addition, the regulation and criteria of the tourist exemption as set out in sections 1 and 2 and subsection 4(1) of the new amendments are so broad as to effectively restrict no one.

As reported in a June 6 article in the Toronto Star, Metropolitan Toronto Councillor Paul Christie stated, "Almost any of the city's busiest shopping areas would qualify for exemption from the Sunday shopping ban under the proposed tourist exemptions." The same article reported that lawyer Tim Danson has already been contacted by a significant number of stores from the Beaches area and from other parts of Metropolitan Toronto and the province to arrange a tourist exemption.

Under the proposed rules, decisions of the municipalities would be final, and the province, including the Solicitor General, would not be able to challenge this decision. In the view of the UFCW this proposal would lead to wide-open Sunday shopping and working, and as a result would fail to enshrine the common pause day as intended.

Our recommendations dealing with the recreational, entertainment and cultural pursuits of tourists as well as

the goal of enshrining the common pause day can both be accommodated by the law. To accomplish this the UFCW recommends the proposed amendments be changed to reflect the following: a new subsection 4(1) to read:

"Notwithstanding section 2 and subject to the provisions of clauses 4(1)(a) and (b) below, the council of a municipality may by bylaw permit retail business establishments in the municipality to be open on holidays where it is essential for the maintenance and development of a tourist industry and where it is essential to meet the educational, cultural, leisure and recreational needs of the tourist; and

"(a) only retail business establishments in which the total area used for serving the public or for selling or displaying to the public in the establishment is less than 4,000 square feet; and

"(b) the number of persons engaged in the service of the public in the establishment does not at any time exceed four."

The government must establish a committee of the affected stakeholders that will prepare and recommend a new set of viable tourist criteria, the regulations. The stakeholders shall include representatives of the affected groups such as retailers, unions and government.

According to the amendment, the tourist criteria as proposed would not form part of the legislation. However, we recommend that the new set of viable regulations established by the stakeholders mentioned above be integrated into the legislation.

Subsection 4(8) must be modified to state, "The council's decision may be appealed by any interested party to the tourist exemption board."

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The third area of concern deals with drugstores opening on Sunday. Under the present act, drugstores with a square footage of 7,500 square feet or less may open on a holiday. Currently, these drugstores must dispense drugs and the principal business must be the sale of goods of a pharmaceutical or therapeutic nature or for hygienic or cosmetic purposes. No other goods are allowed for sale, with the exception of sundries.

Unfortunately, there is a widespread problem with these drugstores selling soft drinks, potato chips, candies and other foodstuffs which are considered sundries. In many cases, up to 80% of the sales in these stores consist of products of a non-pharmaceutical nature. This occurs in spite of ample opportunity to purchase such non-pharmaceutical products provided through the numerous convenience stores that are allowed to open on Sunday. To compound the problem, the absence of a restriction on the number of employees working on a Sunday or holiday allows some drugstores to dedicate extra help for the benefit of sales of these non-pharmaceutical products.

In the proposed amendments that have been introduced, the government has not addressed the problem of large drugstores opening on Sundays. The proposed legislation also fails to put a restriction on the number of employees allowed to work on a Sunday. These drugstores in all practical terms have turned themselves into general stores selling lawn furniture, lawnmowers and a wide variety of other items.

The recommendation of the UFCW is that clauses 3(2)(c) and 3(2)(d) of the present act be amended to read as follows:

"(c) the total area used for serving the public or for selling or displaying to the public in the establishment is less than 2,400 square feet.

"(d) the number of persons engaged in the service of the public in the establishment does not exceed at any time the number four, including the pharmacist, who must be present in the establishment during all of the business hours."

Currently, there are many drugstores with a square footage of 2,400 square feet or less in many communities in Ontario that provide ample opportunity for the population to receive needed medication or other prescription products, particularly in the case of emergency. Additionally, prescriptions and other medications can be obtained at various hospitals and clinics where an on-site pharmacy is open on Sundays.

The limitation of four persons including the pharmacist to be engaged in service to the public would allow the prescription or other medication needs of the people of Ontario to be fully met. Our recommendation would require a pharmacist to be present during business hours in the establishment in order to attend to the prescription and other medication needs of the people, which addresses the real reason for drugstores remaining open on Sunday.

The fourth area of concern is the enforcement of the legislation. Under the present act, there is a provision for maximum fines of \$50,000 upon conviction for illegal Sunday opening. Also, municipalities or the Attorney General of Ontario can apply to the Supreme Court of Ontario for an injunction to close an establishment that is opening illegally. However, there are no minimum fines. In many cases, the courts are imposing fines of \$300 upon conviction. This is hardly a deterrent.

Under the present act, only two parties, the Attorney General of Ontario and the municipalities, are allowed to file for an injunction. Unfortunately, these two parties are in many cases not aware of violations or are not interested in filing for an injunction.

The proposed amendment by the government would impose a minimum fine of \$500 for the first offence and \$2,000 for the second offence. We fully support the principle of a minimum fine; however, the proposed fines are far too low. We believe the amount of the proposed minimum fines will not deter retailers from opening on Sundays. In fact, a retailer's profit for one day could easily surpass the amount of the fine.

Under the proposed legislation there would be no change with regard to who can apply for an injunction. As a result, we foresee the same problems of little enforcement and no action continuing. In order to address problems relating to the minimum fine being an insufficient deterrent and the lack of enforcement, we recommend the following.

The proposed amendment of the minimum fine under subsection (3.1) be modified to include, "For first offences, the minimum fine for conviction be \$10,000, and for subsequent offences, the minimum fine for conviction be \$20,000."

Under subsection 8(1) we are proposing that it be amended to read, "Upon the application to the Supreme Court by any affected or interested party, the court may order that a retail business establishment close on a holiday to ensure compliance with this act or regulation under this act."

At present, legislation similar to UFCW's proposals exists in Quebec, allowing affected parties to apply for an injunction. This legislation has proved to be both workable and effective.

According to a report by the Metropolitan Toronto task force dealing with the issue on Sunday shopping, the cost of enforcement in a single case, beginning with the investigation of the retail business premises and concluding with the laying of the charge, was approximately \$70,475 in 1989 in terms of personnel hours alone. The projected annual cost in terms of personnel hours for enforcement was approximately \$109,762 for 1990.

We believe higher minimum fines, combined with the threat of an injunction filed by affected parties, would be an effective deterrent to retailers who want to open illegally on Sundays. As a result, effective enforcement and the threat of enforcement would reduce the costs as outlined above.

The fifth area of concern that we have deals with the definition of a retail business. Under the present act, the definition of a retail business does not include club warehouses such as Price Clubs. This flaw allows giant stores in the guise of membership clubs to be open on Sunday. The proposed amendment that the government has introduced has not addressed the existing problem relating to the definition of "retail business." As a result, club warehouses will continue to operate on Sunday.

It is our recommendation that in order to prevent the circumvention of the act by establishments such as Price Clubs, clauses 1(1)(b), (c) and (d) of the present act should be amended to reflect the following:

"(b) 'retail business' means the selling of goods or services by retail to any member of the public, including a member of a club or co-operative or any other group of consumers.

"(c) 'Retail business establishment' means the premises where a retail business is carried on. Any space or stall in markets, particularly in covered markets and flea markets, shall be considered to be a retail business.

"(d) 'Principal business' means that portion of the business which accounts for 80% of the retail business establishment's gross sales."

We would also like to bring to the committee's attention some general concerns that we have, and the first of those is to suggest strongly to the committee that Sunday shopping and Sunday working have nothing to do with cross-border shopping. Canadians are going to the United States in record numbers and these numbers continued to grow even during the period in which stores were open in Ontario on Sunday.

In British Columbia, where Sunday shopping and working has existed for a number of years, the existence of open Canadian stores has not slowed traffic to the United States. Cross-border shopping trips in British Columbia increased 400% between 1987 and 1991, in spite of wide-

spread Sunday openings in the province. On a national basis, Statistics Canada reported a 15.2% increase in shopping in the United States in January 1991 over the same month in 1990.

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In reality, there are many reasons for the growth of cross-border shopping: the recession; the high level of the Canadian dollar; high taxes in Canada, especially federal taxes; the introduction of the goods and services tax; the promise of cheaper goods and easier border transit put forward by the federal government to boost the Canada-US free trade agreement, particularly during the 1988 election campaign; reduced duties on US-made goods under the free trade agreement; lower prices in the US resulting from economies of scale, razor-thin profit margins, currency advantages, lower taxes, restricted social programs, the absence of regulations and lower energy costs; lower gasoline prices in the United States; reduced enforcement of Canadian laws and collection of duty and taxes at the border; reduced confidence in Canada by many Canadians; and US investment in advertising designed to attract Canadian shoppers.

Cross-border shopping is causing the loss of billions of dollars' worth of economic activity for Canadian business—sales of retailers, orders for manufacturers, and business for service companies coming from both consumers and other companies. Many thousands of Canadian jobs have been lost in the retail manufacturing and service sectors and countless other jobs are threatened.

While it is essential to stop or at least slow the flow of cross-border shopping as quickly as possible, it is important not to develop Band-Aid solutions or quick fixes that will not last. More importantly, wide-open shopping and working on Sundays will not solve the problem of cross-border shopping.

Sunday shopping and working and tourism is another point that we would like to raise. According to the proposed amendments to the Retail Business Holidays Act, the tourist exemption as proposed would be granted by the municipality only where it is essential for the maintenance and development of tourism. As previously stated, the proposed criteria for the tourist exemption are far too broad and far too general and would provide too much leeway for municipalities to operate as the sole decision-makers. As a result, the exemption as proposed would lead to wide-open Sunday shopping and Sunday working.

Clearly the government has not achieved a balance between the establishment of the principle of a common pause day and the development of tourism. However, by accepting our recommendations we believe the recreational, entertainment and cultural needs of tourists can be met without opting for wide-open Sunday shopping and wide-open Sunday working.

We also would like to leave with the committee our feelings concerning Sunday shopping, Sunday working and the family. The amendments provided by the government would lead to wide-open Sunday shopping and working, affecting a significant number of workers and their families in Ontario. We believe these workers and their families have a right to a common pause day. Retail

workers and their families are directly affected by Sunday shopping and Sunday working. That is more than two million people in Ontario. In addition, police, transportation, public workers, maintenance staff, delivery drivers and other support services for retailing, which represent another 250,000 workers and their families, would also be affected by wide-open Sunday shopping and working on Sundays. Ontario needs a common pause day for workers and for their families.

In conclusion, our goal in the UFCW has always been the enshrinement of a common pause day for retail workers, for workers in related sectors and for their families. The amendments to the Retail Business Holidays Act proposed by the Ontario government, while representing a move in the right direction, would fail to ensure that this goal is met and would serve to open the door to a further erosion of the common pause day.

We firmly believe that by accepting our recommendations the maintenance of family values and the establishment of a common pause day can be realized. UFCW Canada is prepared to work with the government of Ontario and other groups to develop and implement lasting, workable solutions which serve to establish a common pause day and at the same time strengthen the economy of this province and benefit all the people of Ontario.

The Acting Chair (Mrs Haslam): I would like to offer our sincere thanks for coming here today. Looking at the time, I have two people already on the list. I am going to ask that each questioner keep his questions brief and we will ask that for the answers also, because we only have five minutes in which to complete this presentation.

Mr Daigeler: May I say that I am very impressed with your brief. I have been a member now for a little bit more than three years and quite frankly I think your brief strikes me as one of the best in terms of being very concise, very direct, identifying problems and putting forward very useful and precise recommendations on what you would like to see happening. I am not necessarily saying I am in favour of all of these things, but I think what you have done—in fact, I am going to use your brief as an example for some other interest groups that may wish to make representations on other matters as well.

That being said, you referred to presenting your case obviously on behalf of your membership. Sometimes in the press, and I guess by others, it is said that it is the union leadership rather than the union membership putting these views forward. How do you consult with your membership so you can arrive at these proposals and say you are speaking on behalf of your membership?

Mr Evans: We have a number of local unions in Ontario that represent the 70,000 members we represent, and the locals range in size from 13, being the smallest, to 45,000, being the largest. They have different methods of doing it.

If you were to look at the largest, being the most difficult, they hold regional stewards' conferences, regional educational conferences. I have attended many of them, as has Brother Kukovica, and the Sunday shopping issue is always a major issue, and has been, particularly in the last

eight or nine years. The membership is solidly behind these proposals.

I appeared on a television program recently, and they had sought out a part-time food store cashier whom I have never met in my life before that day. She, quite frankly, was a better spokesperson on behalf of the issue than was I.

The Acting Chair: I am just going to stop you there because I am trying to allow a minute. Mr Carr, I am trying to keep it to a minute, so if you can ask a question in a minute.

Mr Carr: Yes, I will be very brief. I want to thank you for taking the time to come and do an excellent presentation. I had a chance to listen to Tom for I guess about two hours at our last Conservative convention, and I appreciated his help at that time as well. He was there to give input. I see him laughing. He probably did not tell too many people he went to a Conservative convention, but he was there to help out, and I thank you.

The Solicitor General said the purpose is to provide for a common pause day in Ontario. Very simply, do you think he has succeeded in doing that?

Mr Evans: With the proposed legislation?

Mr Carr: With his legislation.

Mr Evans: Not unless these amendments that we are recommending are adopted.

The Acting Chair: That was great.

Mr Evans: And I might say—

The Acting Chair: It was almost okay. Fine, go ahead.

Mr Evans: I might say that our organization believes we are not in the business only of identifying problems but also to attempt to identify solutions.

The Acting Chair: That was very good.

Mr Fletcher: Cliff, thanks for being here. It is an excellent presentation. It is nice to hear from the people who are going to be affected by this legislation, primarily the working people of the province.

I have had an opportunity to talk with many of your members at labour council meetings and also at the UFCW walkathon, and what you are saying is what I have heard from many of the members.

You raised an interesting point; you raised many interesting points. I really enjoyed the recommendations and I can support many of them, and we are going to be listening as we go around the province. One of the things you did raise was the cross-border shopping issue, and I would like to tackle that right on. I know that many members of the opposition, when we were forming our committee to travel, wanted to hit many border towns to try to show the correlation between the two.

Stores are open in the US. You have already partly answered this quite well. Is it going to have an effect on Ontario retailers as far as Sunday shopping is concerned?

Mr Evans: Fortunately or unfortunately, I have been in this business and in this union and its predecessors for going on 40 years. Cross-border shopping was never an issue until the high dollar, the high interest rates and the programs developed by the current federal government

were imposed on the people of Canada. I cannot factually tell you that I have done an exhaustive survey and have a finite answer, but I think in many instances the cross-border shopping, especially in the province of Ontario where I talk to people on a regular basis, is a revolt against the GST. Now, if you go cross-border shopping you will find out that dairy products are cheaper, children's clothes are cheaper, booze is cheaper, gasoline is cheaper, and they attract them across the border with those loss leader advertisers. So the federal government is well in control of the solution to the problem to bring cross-border shopping to a grinding halt and, as a matter of fact, to turn it around and go the other way.

The Acting Chair: I believe Mr Poirier wanted to just end with 15 seconds.

Mr Poirier: Yes, thank you, Madam Chair. Congratulations, it was an excellent presentation, and being a francophone, I was impressed that you would do it in both official languages of Canada. I was intrigued by the Tory blue and the Liberal red, I must admit. Thank you very much.

Mr Evans: Jean, we were running out of paper, that is what happened.

1530

TOURISM ONTARIO INC

The Acting Chair: We would now ask that a submission from Tourism Ontario, Mr Roly Michener and Mr Bill Biggs, would come forward.

Mr Michener: Thank you, Madam Chair. Regrettably Mr Biggs could not be with us today. He operates an integrated retail business establishment in northern Ontario and, fortunately, he has been very busy of late. So I am here to represent Tourism Ontario.

Tourism Ontario is a private non-profit federation of tourism and hospitality associations whose more than 7,000 member businesses account for a sizeable portion of the commercial lodging, food service, hospitality, recreation, travel, and transportation services available in Ontario. This submission is supported by the following member associations of Tourism Ontario: Attractions Ontario; Hotel Association of Metropolitan Toronto, whom you will hear from immediately following this presentation; Motels Ontario; Northern Ontario Tourist Outfitters; Ontario Convention and Visitors Association; Ontario Hotel and Motel Association; Ontario Marina Operators Association; Ontario Motor Coach Association; Ontario Private Campground Association; Ontario Ski Resorts Association; Resorts Ontario; and 11 Ontario travel associations.

The social and economic importance of the Ontario tourism and hospitality industry is very substantial indeed, and I would refer you to that page in the submission which outlines just how important it is to the economy of this province. Our federation believes that in a free and democratic society the public should have the unrestricted right and freedom to choose whether and where they wish to shop any day of the week and at any time of the year. Thus retail shopping should be permitted throughout Ontario where and when retail business establishments perceive the need to provide it.

Similarly, Ontarians should have the unrestricted right to work, earn incomes, and profit from the production and sale of goods and the provisions of services any day of the week.

Retail shopping is an integral part of the tourism experience, and represents a significant portion of the value of all tourism expenditures in Ontario. Most retail shopping, dining out, touring, sightseeing, and recreation takes place on weekends. Clearly, the majority of Ontarians and visitors to Ontario favour unrestricted retail shopping on Sundays and holidays as part of family activities, and I would underline that.

Tourism Ontario is of the firm opinion that unless and until the government of Ontario is prepared to recognize these fundamental rights, freedoms and marketplace realities by abolishing the Retail Business Holidays Act, Ontario is destined to continue to lose billions of dollars worth of annual tourism and retail sales to bordering American jurisdictions which are wide open for retail business on Sundays and holidays.

Further, whereas we see some merit in Bill 115 and commend the Ontario government, particularly the minister and Ministry of Tourism and Recreation, for endeavouring to recognize the value and importance of tourism in this legislation, in the end analysis we fear it will result in costly and time-consuming administrative burdens and litigation as municipalities, retail business establishments and organizations endeavour to interpret, comply with and apply the proposed provincial tourism criteria in the context of a common pause day.

Regrettably, the inconsistencies, confusion and conflicts outlined in the proposed amendments to the Retail Business Holidays Act and pursuant regulations may not result in the desired positive interface and co-operation between the public and private sectors to realize and capitalize on the tremendous economic and social benefits of retail shopping as an integral part of tourism throughout Ontario.

Therefore, we would respectfully request that members of the standing committee on administration of justice seriously consider the following changes which should be made to the proposed Retail Business Holidays Act amendments and regulations in this regard. They are as follows:

Under regulations:

Tourism criteria: Subsection 1(2), tourist area characteristics: The list of characteristics for a qualifying geographic area should be expanded to include the following tourism criteria: tourism in the area has historically been an important part of the local economy, and provides goods or services necessary to tourist activities in the area.

Subsections 2(1) and (2), retail business restrictions: This whole subsection is redundant and blatantly discriminatory and should be removed from the proposed regulations. The number of persons serving the public and the floor space occupied by a qualifying retail business establishment should have no bearing on its ability to meet common tourism criteria.

Paragraph 3(1)2, tourism season qualifier: These time periods will vary within a designated tourist area, as will the length of tourism season for various types of qualifying retail business establishments for a wide variety of market-

driven circumstances. Therefore, we recommend that this qualifier be removed from this subsection.

Subsection 3(2), exemption application procedures: Again, we would make the same comment as we did for subsections 2(1) and (2), namely, that they are openly discriminatory.

Retail Business Holidays Act amendments:

Empowerment of local municipal councils: Clause 1(1)(aa) of the Retail Business Holidays Act, 1989, should be amended to permit all local municipal councils within a district, county, metropolitan or regional municipality to enact bylaws to permit retail business establishments in each local municipality to be open on holidays for the maintenance or development of tourism. It is duplicative, unnecessary and unfair to burden metropolitan or regional municipal councils with applications from local councils regarding designated tourist area exemptions, as is currently the case.

Council's obligations, subsection 4(7): Municipal councils should not be granted discretionary power through which they can refuse to pass a designated tourist area bylaw permitting any or all retail business establishments which meet the provincial tourism criteria and that apply for exemption to be open on Sundays and holidays.

Council's decisions, subsection 4(8): To make a given municipal council's decision final on whether or not it wishes to pass a bylaw to permit retail business establishments in a municipality to open on Sundays and holidays for the maintenance and development of tourism defeats the whole purpose of it having such authority in the first place. That is to suggest unequivocally that no legitimate reasons or causes could ever be presented to a municipal council which had refused to designate a tourist area under a tourist area bylaw exemption, regardless of merit, including future development of tourism infrastructure or ventures within said municipality. Surely, in a democratic society, which the government of Ontario is committed to for all of its citizens, such a draconian clause should be withdrawn.

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Procedures of councils, clause 4(9)(d): Municipal councils should not be granted the power to limit the number of applications from retail business establishments that they will consider in a given year. Businesses should be free to apply for the exemption at least once every calendar year.

Cabinet regulations, clause 4(10)(a) to 4(10)(d): The provincial cabinet should clearly articulate these regulations as part of Bill 115. It is unfair and unreasonable for public and private sector interests to be asked for comment on this bill without the benefit of clarity in this regard. We see no reason for the Ontario government to usurp or duplicate the authority accorded municipal councils under this act except to provide direction and simplicity in the required content of applications and the capping of fees for the processing of applications.

Classification of retail business establishments, subsection 4(11): We are unalterably opposed to any such vague and discriminatory authority being granted to the crown or municipalities under this act.

Contents of bylaws and regulations, clause 4.2(a) to 4.2(f): The Retail Business Holidays Amendment Act,

1989, established similar parameters which were arbitrary, potentially discriminatory and altogether unworkable for many municipalities and retail business establishments in them. We would strongly recommend that clauses (a), (d) and (f) be withdrawn from this section of the amended act because they are inconsistent, undemocratic, discriminatory and unfair.

Transitional rules: Whereas Bill 115 purports to support and protect Ontario's tourism industry through the provision of province-wide tourism criteria to exempt qualifying retail business establishments from Sunday and holiday closing requirements, it also establishes a minefield of obstacles and potential obstacles to the realization of these laudable objectives as previously articulated in this submission. Therefore, it is completely unreasonable to require that all municipalities in Ontario comply with the transitional rules laid out in Bill 115. Rather, we would forcefully recommend that subsection 6(2) of the Retail Business Holidays Amendment Act, 1989, as constituted by the former government, be retained as transitional rules for the purposes of the Retail Business Establishments Statute Law Amendment Act, 1991.

Common pause day: The concept of a common pause day in Ontario is outdated, outmoded, unnatural and misplaced. In our contemporary and pluralistic society tens of thousands of Ontarians must work at all hours of the day and night throughout the week in resource industries, in the processing, manufacture, packaging and distribution of all manner of products, and in the provision of a broad range of goods and services to our citizens and others. While some people rest, others conduct business and provide services.

The Ontario tourism and hospitality industry must provide value-for-dollar quality products and experiences and good service on an uninterrupted basis to patrons from domestic and foreign markets 7 days per week and 365 days per year, with some seasonal and geographic limitations. The market appeal of our industry is driven by the demand created for its products, experiences and services in an extremely competitive international market, and the supply of them by willing entrepreneurs, professional management and staff, and to a very substantial extent by various Ontario government ministries and agencies. We must provide these products, experiences and services to our patrons when they want them or risk losing them to other competing jurisdictions. Thus the concept of a common pause day is totally alien to our industry and to many other segments and sectors in our economy.

Tourism values: We are often asked what constitutes tourism. Tourism is the direct supply of goods and services to facilitate business, pleasure and leisure activities 40 kilometres or more away from the home environment. It covers a broad range of products and services including: transportation, that is, airline, auto, motor coach, rail and marine; accommodation; food and beverage services; live and participatory entertainment, ie festivals, events, culture and the arts, athletic competitions, business and social gatherings; conventions, meetings and symposiums; amusement activities, including those of a leisure nature,

recreational and educational; and to a very significant extent, retail shopping in all of its dimensions.

All manner of activities are encompassed by tourism, such as visiting friends and relatives, urban and country touring and sightseeing, soft wilderness and wilderness lodging, camping and leisure pursuit, historic and heritage site visitations.

The Ontario Ministry of Tourism and Recreation, with assistance and support from the private sector in tourism, has carefully segmented its substantial tourism marketing initiatives to create the greatest possible public awareness of and demand for the products, services and experiences offered by our industry in our target markets throughout the year.

Retail shopping is a major tourism activity in Ontario. In virtually all of the research which has been conducted of resident and foreign visitors' travel in Ontario, retail shopping constitutes one of the top three tourism-related activities. In 1988, for example, retail purchases represented \$2.2 billion of all tourism expenditures in Ontario. Direct jobs in that year created by the retail sector amounted to the equivalent of 29,000 full-time jobs or 14% of the total direct employment in the tourism sector. The total impact of tourism-related retail purchases in 1988 on tax revenues generated by the province was \$366 million for Ontario, \$134 million for Ontario municipalities, and \$602 million for the federal government.

The majority of all tourism-related activities, including retail shopping, takes place on weekends.

The Ontario government, through the Ontario Ministry of Tourism and Recreation, invests a substantial portion of its multimillion-dollar annual tourism marketing budget in the active and aggressive promotion of retail shopping and touring in the province. Non-resident visitors are encouraged to shop and to stay in Ontario through a very productive provincial sales tax refunds for visitors to Ontario program, which was established by the province in 1977.

Sunday and holiday shopping has become an economic necessity for many thousands of Ontarians as they struggle to balance working realities with personal and family responsibilities. It is also a primary tourism activity for families and individuals who travel to and within our province, and who combine shopping with entertainment, sightseeing, touring, dining, recreational activities, festivals, and events.

The province of Ontario and all municipalities in the province benefit directly and considerably from tourism expenditures. Both levels of government are constantly searching for new and incremental sources of revenue to fund all manner of social services, enhanced and enriched education for our citizens, better health care, improved roads, and affordable housing. Government recognition and protection of tourism values and the operational realities of our industry at both the provincial and municipal level will enhance significantly the ability of government to provide said services for our citizens.

While we commend, once again, the efforts of the minister and the Ministry of Tourism and Recreation to recognize the value and importance of tourism in Bill 115, we are very concerned that the full potential of our industry as it relates to Sunday shopping as a major tourism activity

will not be realized unless significant amendments are made to the Retail Business Establishments Statute Law Amendment Act.

We respectfully recommend therefore that you, the standing committee on administration of justice and the government of Ontario, seriously consider all of the facts and recommendations which we have rendered in this submission.

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Mr Poirier: What very direct, to-the-point recommendations pertaining to the definition of "tourism"—what do you expect to see if things remain the way they are proposed as per who decides what and where and with whom pertaining to what is a tourism-related business?

Mr Michener: In this bill, sir?

Mr Poirier: That is right, yes.

Mr Michener: We expect to see a hodgepodge. We expect to see ongoing litigation in the courts as retailers endeavour to force their rights. We expect to see municipalities wrestling with this interminably and having a great deal of difficulty in ascertaining just what they should be doing in all of this to enhance tourism in their respective jurisdictions. I would bring you back, once again, to one of the recommendations we made, and that is that specifically this committee consider granting local municipal councils the right to make the determination as to what constitutes a tourist area exemption, and hearing depositions directly from, hopefully, qualifying businesses within the local municipality. As things now stand, for example, in the municipality of Metropolitan Toronto, if one of the cities within Metropolitan Toronto wishes to enact a tourist area exemption, it would have to go to Metro council. This is going to create enormous problems for a metropolitan council in a city the size of Toronto, and we would strongly urge that you consider making that a local option in the truest sense and permitting local councils, ie, the city of Toronto, the city of North York, etc, and franchising them to make these determinations locally.

Mr Carr: One of the concerns I had that I expressed to the minister just before this is, what would happen if we end up with a patchwork effect, if one municipality opens and another one does not? From your perspective, what would happen to a tourism business that was adjacent to an area that was possibly open and his was not? What impact do you think that would have on the tourism industry in the municipalities that were closed?

Mr Michener: Very good question. I think it would have a very direct impact and it would be to the detriment of tourism in the adjoining municipality. There is no question about it, because we do know very well, as I mentioned in the brief, that retail shopping activity constitutes one of the top three tourism-related activities of people who are travelling and visiting with friends and relatives and so on throughout Ontario, so it would have a very direct and unfortunately a detrimental impact on businesses in the affected municipalities.

Mr Fletcher: Just before a question, I have a comment. Looking at your brief on page 8: "It is worth while

noting that of more than 10,000 inquiries and complaints with the employments standards branch...fewer than 15 were related to the right of retail workers to refuse work." Knowing the workplace, with the present legislation, I do not think I would have complained either. I would have been put under a lot of strain and stress. That is one of the things that I am trying to get at: the employment standards changes that protect the rights of workers to refuse work have been strengthened, and I know your group is not happy with it. Your brief is very good. It is to the point, and I do sympathize with some of your concerns, but not all, and the one that I am having a problem with is the right of workers to refuse.

You make some assumptions in your brief. On page 15, you are talking about people who are available for work and they want to work. They want to have the right to work. "Many of these people and others are or would be happy to work in a retail business or retail business establishment on Sundays and holidays." That is hard to accept as an assumption, that that is a way a lot of people do think.

The Chair: Do you have a question?

Mr Fletcher: I am just going on like Mr Sorbara. "If employees in our industry are treated with dignity and respect by employers whose businesses are so dependent on staff attitude"—I agree with you that whenever I am in a tourist area, that is what usually does sell the place to me, but not all employers are benevolent and not all employers are going to treat their people with respect, and I think that is one of the reasons that the Employment Standards Act has been changed, to protect employees in that way.

As far as your industry is concerned, as you do say that all employees are protected under the Employment Standards Act, would it have a great effect, having that piece of legislation in where employees are protected, if there are so few people who are going to complain and if the employers and the business people are so benevolent? That does not really matter, the changes to the Employment Standards Act. That is not going to kill the tourist industry.

Mr Michener: Well, let me put it to you this way: If you walked into a restaurant and there were an insufficient number of people available there to serve you at a given point in time, would you be happy? Would you be likely to return to that restaurant?

Mr Fletcher: Since you asked me the question, that is another assumption, that people are going to use the law in the way you see it. As you said before in your brief, people who are working in the tourist industry know they are there for that specific reason and their performance is what does bring the people back. So I am saying to you it is not a crucial factor in the tourist industry. I do not think you will—

Mr Michener: Well, we believe it is, and we also believe that management must reserve the right to schedule work and work schedules. That is a fundamental premise I think in any business, but particularly in our business. We have to be there when the customer calls. We have to have appropriate service available when the customer calls, and as we mentioned in our brief, people who work in our industry willingly accept the fact that they are going to be

working variable hours throughout the week, including, in many cases, Sundays and holidays as well.

Mr Fletcher: If we have time, Mr Chair, I will come back to the question at the end.

Mr Daigeler: The minister when he was here earlier made much about consultation that has taken place. I just would like to hear from you to what extent and what way your federation has been involved in the preparation of this legislation. What was the consultation that has taken place before the drafting of this legislation?

Mr Michener: The consultation entailed the minister and ministry staff preparing a number of options for our consideration in terms of provincial tourism criteria that might be considered. Beyond that, we were consulted, as were most of the other groups that will come before you, by the Solicitor General's office directly. We met with the Solicitor General, met with tourism officials at the same time, and officials from the Ministry of Labour. We were presented by the Solicitor General's office with a series of criteria to consider, a series of options to consider in terms of employment standards. That was the extent of the consultation. We were asked for our views and we willingly gave them at the time.

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Mr McLean: When I saw Bill 115, I felt the criteria that are laid down with regard to tourism would include pretty near everything. I see today you have added a couple more, and I am not so sure they would be necessary. In your opinion, what stores would remain closed if a council wanted to pass a bylaw in the city of Windsor to have open Sunday shopping? Could they not do it now?

Mr Michener: No, nothing over 7,500 square feet would likely qualify under this bill.

Mr McLean: But everything under 7,500 would, whether it is a shoe store, clothing store, whatever?

Mr Michener: I am not sure. I could not say that with total authority either, but anything over probably would not.

Mrs Haslam: I was interested in your comments on page 5 about a council's decision and to make a given municipal council's decision final. What type of appeal process would you like to see in place if you do not like to see the municipal council's decision being the final one?

Mr Michener: I think that within the realm of municipal councils, if indeed the empowerment is with municipal councils, an appeals mechanism has to be struck.

Mrs Haslam: You would like the appeal process kept within the municipal council?

Mr Michener: If that is where the empowerment is going to be, yes. If the empowerment is going to be provincial, then it would be provincial responsibility.

Mrs Haslam: Could I ask for a clarification on that, please. Here you are saying, "To make a given municipal council's decision final defeats the whole purpose of its having such authority in the first place." What I am saying is, if you do not want the final decision left at a council level, are you asking for an appeal process, and if you are, I would like to know what kind of appeal process you

want to see. You are saying the appeal process should still be at the municipal council level.

Mr Michener: I think it has to rest with the level of government which is responsible for enacting bylaws in this case, and that would be municipal council.

Mrs Haslam: For clarification, I am just asking what kind of an appeal process you perceive?

Mr Michener: I do not know. Perhaps you should go back to the Solicitor General's department and ask the people who drafted—

Mrs Haslam: That is what this committee is for, to ask you, and that is why I am asking you.

Mr Michener: We just think it is far too arbitrary to say that the decision of municipal councils is firm and final, however it is struck, one side or the other of this act. We think there must be an appeals mechanism struck within this legislation which permits municipalities to hear appeals. How frequently, how many, and from whom, I do not think anybody has thought their way through, but we just think it is far too arbitrary for municipal councils to be forced, in the first instance, to make a firm and final decision that is binding and non-appealable on an issue as important as this.

Mrs Haslam: But you would like an appeal process kept at that level?

Mr Michener: Sure.

The Chair: Thank you, Ms Haslam. Thank you very much, Mr Michener.

Mr Michener: Thank you.

Mr Poirier: How many subs was that, Karen?

Mrs Haslam: Not subs, clarification. It was the same question; I just wanted to make darned sure of the answer.

HOTEL ASSOCIATION OF METROPOLITAN TORONTO

The Chair: We now have representing the Hotel Association of Metropolitan Toronto, Mr Edward Robinson. Mr Robinson, I am sure you saw from the previous submission, we basically have about half an hour. Take that time whichever way you wish to. Typically it is half an hour for your presentation and half an hour for questions. Please commence when you are ready, sir.

Mr Poirier: Half an hour for everything, including questions.

Mr Robinson: I have not started and you are fighting about it already.

Mr Poirier: I say clarification.

The Chair: Clarification. Half an hour divided typically in half.

Mr Robinson: Okay, I get the message. We will make it half an hour.

Mr Chairman, ladies and gentlemen, my name is Edward Robinson. I am the executive vice-president of the Hotel Association of Metropolitan Toronto. We have 115 members and represent 30,000 employees in the Metropolitan Toronto area.

Our industry is, and remains, on public record as being in favour of unrestricted Sunday and holiday shopping as a vital and integral part of the entire tourism infrastructure. We also believe it is the inalienable right of every Canadian to work, earn income and profit from the production and sale of goods and services regardless of the day of the week.

We believe the government of Ontario in its wisdom is prepared in a positive and substantial manner to recognize the value and importance of tourism in this proposed legislation. By the year 2,000, if not sooner, tourism will be the largest industry in the world, bar none. It is already Ontario's largest private sector employer and the largest industry in the service sector, accounting for 70% of all new jobs.

Ontario has recently experienced and—unfortunately, with the way the world is going, free trade with Mexico looming on the horizon—will continue to experience substantial losses in industrial and manufacturing jobs. Tourism, if properly managed and nurtured, is the only industry poised to pick up the slack in this sorry unemployment scenario.

We urge you, the standing committee on administration of justice, to convince the provincial cabinet and government caucus that the diversity of factors which encourages tourism and travel to and within the province should be reflected in the proposed criteria for tourist area exemptions and permit substantial retail business activity within these areas on Sunday and holidays.

The committee heard and will hear from various tourism groups the importance and indeed the vital nature of tourism for our province and country. You have just heard from Tourism Ontario, a federation of which we are a member, all of the facts and figures relating to tourism and its extraordinarily positive effect on the province's economy as it relates to jobs, foreign exchange, etc.

Tourism Ontario, in this extremely well-thought-out brief, also addresses the regulations as they pertain to tourist area characterization, retail business exemption, etc. Rather than attempt to reinvent the wheel and reiterate its compelling analysis of why Sunday shopping must be allowed, I would like to briefly talk to you about tourism in general.

Tourism as an industry rarely receives a big level of public acceptance and recognition commensurate with its vital share of economic activity. One of the major reasons for this is the lack of hard statistical data on the true value of the industry. Indeed, most existing statistical systems, government and private sector alike, fail to adequately document the full scale, scope and impact of tourism-related activities.

This lack of documentation of tourism's broad impact on economies, societies and indeed tax revenues leads in turn to a lack of understanding and sympathy by politicians, public policy officials and the general public towards the industry. Similarly, privately or publicly funded entities dependent on tourism visitations may not receive adequate data about their industry or related tourism industry elements to plan, manage or market effectively.

Many nations, Canada being in the forefront among these, still place all their emphasis and their public policies on agriculture, mining, raw resources and manufacturing as the countries' major sources of economic strength, failing to further the economic power of tourism and the service

industries in general. Indeed, most provincial governments and the federal government spend billions of taxpayers' dollars subsidizing agriculture, mining and manufacturing, while the tourism industry seldom requests and hardly ever receives grants or subsidies of any description. There are indeed some exceptions to this.

It is a well-known fact that the tourism sector has historically received far less extensive treatment in national statistical programs than the basic industries with which most politicians are familiar. It is therefore axiomatic that one gives short shrift to anything one knows little about. In fact, tourism activities are often perceived as being frivolous and therefore of low priority, regardless of their high employment levels and foreign trade earnings.

That Sunday shopping is an issue up for public debate at this time clearly proves this point and illustrates the lack of understanding and awareness politicians, civil servants and the general public have of tourism and the vital role it plays in both domestic economies and the overall world economy. It would be fair to say every Third World developing or fully developed nation in the world recognized long ago the vital importance of this ubiquitous industry.

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Sunday shopping is a very emotional issue. It conjures up visions of fathers and mothers being torn from the bosom of the family, of heartless employers holding guns to the heads and threatening the jobs of employees, of empty church pews, etc. Nothing could be further from the truth. Sunday work has been an acceptable and time-honoured profession for hundreds of thousands of hotel and restaurant workers in Ontario and Canada from the day the first inn opened its doors.

Hotels stay open 24 hours a day 365 days a year, usually only closing when the wrecker's ball comes to claim it. Thousands upon thousands of people, such as those employed in the running of essential services, telephone, hydro, airports, etc, also work on Sundays. The point is, the world does not come to a screeching halt on Fridays at 5 pm and reopen for business on Mondays at 9 am.

Between the middle of 1989 and today, at least 8,000 employees in my association of 30,000 have been laid off. Any one of these people would, I submit, gladly work at any job every Sunday in the year rather than accept unemployment insurance or welfare. We are the only industry capable of reducing welfare rolls significantly. Nurture, encourage and protect this industry and watch it perform miracles in reducing unemployment. Put up roadblocks, such as the elimination of Sunday shopping or tax us to death, and suffer the consequences.

We therefore urge all Ontario municipalities to work with our industry in recognizing the social and economic benefits which tourism in all of its dimensions, including Sunday or holiday shopping, brings to hundreds of communities throughout Ontario 365 days a year.

Mr Poirier: Mr Robinson, if the provisions go along the way the government wants to right now, what do you see happening in the tourism sector?

Mr Robinson: The problem as we see it at the moment is the ambivalence of a lot of the provisions proposed

by government. As I say, we are in favour of wide-open Sunday shopping. Every survey ever conducted by the Metropolitan Toronto Convention and Visitors Association clearly reflects shopping as being in the top three things people want to do on Sunday in Toronto.

The name of the game is competition. We have to remain competitive in the tourism industry among the world, North America especially. The moment we become uncompetitive—as we are now with the high dollar, with the GST, granted, and we have heard that—we will lose untold jobs in the industry. We will also lose our industry.

The tourism dollar is extremely discretionary. It goes where the value is best, and we know that. Every time we take a vacation, we plan our vacation and we go where our money buys the better deal. This does not change province to province or country to country. So we are concerned with what is proposed, with the confusion which will result from a bill which is totally unclear.

Mr Carr: I want first to thank you for your presentation. I suggest with it now being left up to municipalities, you are going to have to be a part of doing this over and over again. Just in that regard, what is going to happen to a lot of members of your association is they are now going to have to go to municipalities and lobby for what they would like to see. Have you been able to piece together how much, in terms of time and manpower, that will cost to do that? How do you see it happening?

There have been some comments by the Canadian Federation of Independent Business that this is nothing more than red tape. I wonder what your comments are. How much effort will it be for members of your association to begin the lobbying process that will inevitably go across the province now?

Mr Robinson: Red tape, nightmare, passing the buck—we see all of these things happening. It is going to be difficult. We have limited manpower and resources. We simply want governments at all levels to use their common sense about this problem called Sunday shopping. We do not want it to be further politicized. This is a political football. It is being passed around from province to municipalities. The federal government has been blamed for most of the ills of cross-border shopping, so we see it as being more a political football and a very emotional issue than one of reality.

The reality is that Sunday work and Sunday shopping are with us and will be with us for ever. The point I made in my brief is that every one of us enjoys, when we have Sunday off, somebody else's work on that Sunday, whether it is watching television or a ball game or going to see the Blue Jays. It does not really matter. It is here; it is to stay. No one forces people to work. So what I say is, let's remove the emotion from this issue and look at it the way you should look at it.

Mr Mills: My response is that I think our government recognizes the importance of tourism to a degree at the present time that has never been recognized before. You say governments do not care about tourism and I think that we really care. We do care and I think that is reflected in the proposed amendment to the legislation.

I would like to thank you for your presentation. We are here to listen to briefs, to people like you, with an open ear and hopefully to fine-tune the legislation further down the road. This is a draft amendment, and we are listening and we will be looking at everything. But I want to reaffirm that in our government one principle that is not negotiable is the fact that we are committed to a common pause day and that common pause day commitment was made prior to the last election and probably was a big issue in that election. We are here, so I will presume that most of the people who supported us are in support of the policy.

The Chair: Have you got a question, Mr Mills?

Mr Mills: The question I have is, and I am entitled to a preamble to get to that question—judging by the flexibility that you give to our absent friend over there—do you not see anything positive in the tourism criteria that we are proposing to introduce in this amendment? Does it not satisfy you in any way at all?

Mr Robinson: First of all, I think if you read my brief, I did not say that governments did not care. I said they did not understand tourism.

Mr Mills: Well, I think we do.

Mr Robinson: I do not really think you do. Really and truly, tourism is an extraordinary industry which is very little understood at all levels of government. So, having said that, what was your question?

Mr Mills: Do you see anything positive at all in the tourism criteria? There must be something.

Mr Robinson: In what is proposed in Bill 115?

Mr Mills: Yes. Can we make it work?

Mr Robinson: Well, from what I have seen of it, I would have to preface my remarks to say that I think it can lead to tremendous confusion. I think this business of a common pause day is anachronistic. It is outdated, it is old-fashioned. Maybe we have had it for ever in Ontario, but that does not mean it is not time to look at it again.

This bill protects only retail workers. What about the hundreds of thousands of other workers who work for government who must work on Sundays to provide essential services? Why do you not protect them or bring out a bill to protect them? Why only retail workers? You are totally inconsistent with this.

1620

Mr Mills: I can answer your question. We protect retail workers because we see in those folks the people who are most affected. They are not unionized. They really have not much protecting them. They are really low-paid, and they are really at the mercy of the employers.

Mr Robinson: I think that is nonsense, Mr Fletcher. That is absolute nonsense.

Mr Mills: No, Mills is my name. Fletcher is gone.

Mr Robinson: Mr Mills, I am sorry. I really think that is—

Mr Mills: Thank you very much. I am not going to get into an argument.

Mr Robinson: We do not take advantage of people. There are laws which prohibit that.

Mr Daigeler: Thank you for the presentation. I must say, though, coming from a European background, I am a little bit struck both by your presentation and the earlier presentation which see so little connection between tourism and what I consider to be the concept of pause and leisure, ease, enjoyment, beauty, not doing anything. Quite frankly, I would have thought that tourism is very much related to that, and that as people in the tourism industry you would see a tremendous role for moving away from that emphasis on work and perhaps re-emphasizing recreation and leisure and let's work less.

There is a tendency in Europe to shut all things down on Friday afternoon. I am really surprised. Some of my relatives stop working now on Friday afternoon, and they are off the whole weekend. We seem to be going in the opposite direction.

I must say I am wondering a little bit. You said that the third priority of tourists who come here is shopping. May that be because there is nothing else to do and is it perhaps our role to create some attractions that will bring tourists there?

Mr Robinson: But does that mean you do not want them here on Sunday because everybody goes on vacation?

Mr Daigeler: No, but I am saying I think there is a relationship between—and I personally support the idea of a common pause day—a pause day and tourism and leisure and recreation. I think there is a relationship. I do not think you can just say "Let's just throw it out."

Mr Robinson: I understand where you are coming from. However, you come from Europe, and I guess you are probably a skier and had some of your finest moments on the slopes on Sundays—

Mr Daigeler: Right.

Mr Robinson: —which is a major day of activity in Switzerland or throughout Europe. Somebody has to provide those facilities. That does not mean that people work seven days a week. It means that they are off Mondays and Tuesdays instead of Saturdays and Sundays. It means they are off Wednesdays and Thursdays instead of Saturdays and Sundays. What I am saying is that the idea that Saturdays and Sundays are sacrosanct is long outmoded and outdated. Saturdays and Sundays are two days of the week where a tremendous amount of business, especially in the tourism industry, is conducted. You cannot close every hotel on Sundays. Most business people check into hotels Sunday evening to be ready for Monday morning's work. Somebody has to provide those facilities to cook a meal for them and to make their beds.

Most people go on vacation—and I doubt anyone here would dispute this—and include Sunday as a day of their vacation. Wherever they go, Disney World, Disneyland, Sunday is a big day. We make the most of it. Someone has to provide those services. Those people who work Wednesday through Sunday get Monday and Tuesday off. That is how it has been working in the industry for years. Nobody works seven days a week. That is against the law in any event. It compensates for it. Everybody loves weekends, but those of us in the industry who work weekends get another two days off. Families do not suffer. People who work Sundays are not bad, wicked, evil or perverse,

contrary to some of the comments we have been hearing. They are law-abiding citizens who look after their families.

Mr Carr: I would take it one of the major competitors for the tourism dollar would be US citizens who potentially could come over here or go, for example, in New York state and stay in their own area. What are your statistics on the number of Americans as a percentage of the tourism that affects your association, and how do you see this affecting them if we were to remain closed? Do you have any idea? It might just be a guesstimate, but I wonder if you could fill us in. I guess the gist of it is, are we losing American tourist dollars because of being closed on Sunday?

Mr Robinson: I think it would be catastrophic. I really could not give you a figure, but as I mentioned earlier, for people who go away for a weekend, Sunday is 50% of their weekend. The Eaton Centre is an attraction. It is a world-wide recognized attraction. People do not only want to shop there; they want to see it. It is like the CN Tower, perhaps Ontario Place, the dome: it has a name about it. If we remove these attractions then we limit again the number of people who want to visit Toronto.

It goes back to the old days where everything closes on Sunday. The visitors can go elsewhere. There are all kinds of other places competing successfully for the tourism dollar. This is what scares us: that every time we lose a customer he may go somewhere and like it better, find it cheaper and never come back, and spread the word. That is already happening. Our hotels are extremely hard hit this year. Thousands of people have lost their jobs. We just do not need anything else muddying the tourism waters and making it difficult for people to enjoy Toronto, which is what this may do. We know you all care, we know you are all responsive, otherwise you would not be here. We recognize that and appreciate it, but you have to see that it is not just an issue of Sunday shopping. It is far more than that and it is far greater than that.

Mr O'Connor: I want to thank you for coming here today and giving us your submission. There are quite a number of things I do not agree with—in fact, perhaps even somewhere close to the majority of it. In the legislation we are looking at we are trying to come up with a piece of legislation that is going to protect the worker. You, in fact, on page 3 mentioned your workers. Your workers quite often are those single parents who would like to have that common pause day. What we are trying to do is come up with some legislation that enshrines that common pause day and that right for that individual. That is what we are looking at.

What I would suggest, and perhaps to you as a representative from the tourist industry, is help us in the tourist criteria and try to help us to find that area and maybe recognize the fact that we as legislators want to protect the worker. We have a role to play here and protection of the worker is important. That is something that we are seriously looking at.

As far as the tourism criteria, we are looking for some advice and we want to be serious about this and discuss this. You have not talked about the criteria an awful lot in here. Sunday shopping is not the issue, you are right; a

common pause day is the issue. That is what we are trying to look at. In the tourist criteria, is there anything that you think can be used to enhance the protection of the tourist criteria that are there now? That is where I would like some creative thinking, because you have pointed out the people who are affected by it. We recognize that and we want to protect those people as well, but let's try to help the industry here; let's come up with something to designate the tourist criteria that need to be put in there.

Mr Robinson: My comment would be, why do you have to have a common pause day? I said it earlier: If an individual works in a hotel Wednesday through Sunday, he is given two other days off, Monday or Tuesday. Why does it have to be common? I said that was an outdated notion, and I believe that. People do have pause days. I said the idea of a common pause day, which is being floated here and is a political issue, is out of date.

By bringing in legislation which muddies the tourism waters, by bringing in stops which could affect the visitation of people to Toronto, you are not helping the employees. They are already at risk, and at high risk. Already at least 8,000 jobs have been lost directly because tourism is down in Toronto. I am just talking about Toronto in my little association of 30,000. You know the figures because you see them on your welfare rolls. All of those people moved to unemployment insurance and then on to the welfare rolls. That is where they are right now.

We are the biggest employers of minorities, women, youth, native people in Ontario. The minute the economy turns around and we start filling our hotel rooms, we bring all those people back off welfare immediately, because we employ them. So we want your help in supporting tourism, not in muddying the waters and bringing in common pause days and making it difficult for the visitors—the tourists—to enjoy themselves or have free access to the city, to do what they want to do.

Mr O'Connor: I sure hope that the members of the Legislative Assembly consider the fact that protection of the worker and 36 hours of rest is not outdated, because I think protection—

Mr Robinson: I never said that.

The Chair: Thank you, Mr O'Connor.

Mr Robinson: I never said that. You know I did not say that.

The Chair: Thank you, Mr Robinson.

Mr Robinson: Thank you very much, ladies and gentlemen.

1630

CHINESE COMMUNITY FOR THE FREEDOM TO WORK

The Chair: Do we have the delegation from the Chinese Community for the Freedom to Work? Thank you. We have approximately half an hour, Mr Woo. Please feel free to use that time as you wish. Typically, people use approximately half for their presentation and then half for questions from the members of the committee. Please feel free to start when you are comfortable in doing so.

Mr Woo: My presentation will be simple, but some of the arguments may not be that sweet, at least to some of you, to hear. My name is K. K. Woo, organizer of the Chinese Community for the Freedom to Work, which is a petition movement asking the Premier to repeal the Sunday shopping law.

As of now, we have gathered over 40,000 Chinese Canadian signatures, signed, mostly, by the grass-roots people, such as homemakers, unemployed workers, students, restaurant cooks, waiters, waitresses, grocery cashiers, senior folks and garment and factory workers.

Though it started out as a grass-roots movement in the Chinese community, we ended up getting over 200 Chinese organizations' support, not just in the province of Ontario but also across Canada. For example, the Chinese Canadian National Council is in complete agreement with our emphasis on the freedom to work and the right to choose.

I am going to talk about our petition beliefs, because I feel it is very important so that you see where we come from. It is important also because, before we ask people to sign their names, they must understand what the petition is about. So for those who have signed the 40,000 Chinese individual signatures and the 200-plus Chinese organizations, here are the following beliefs:

1. The right to work: We believe that the right to work is a basic human right and no law should be made to infringe it.

2. The freedom to choose: We believe that the freedom to choose when to work is a basic individual freedom, that no law shall be made to violate it. It is good that we are seeing the proposed legislation which protects workers who do not wish to work on holidays or Sundays, but what about those who prefer and choose to work on Sundays? Can the government trust individuals' ability to choose and decide? That is the question.

3. The provision of subsistence: It is of utmost importance that we state this point, because we really believe that the provision of subsistence for ourselves or our family is regarded as something sacred and honourable in the Chinese culture. The less government interference, the better.

4. Family shopping days: We believe that Sundays and holidays are habitual shopping days for most Chinese families. We would not like to see a street like Yonge Street all closed.

5. Chinese community shopping needs: Since Sundays and holidays are important business days for Chinese workers and employers alike to make a living and to serve the shopping needs of the Chinese community, in our free economy we really would like to see the community needs and the marketplace settle the issue of Sunday shopping.

6. We believe that full employment enables us to be productive residents of Ontario contributing fully to the province.

7. During these difficult economic times, as we all know, the law, in our viewpoint, threatens our livelihood and employment. On this point, we do not question the motivation of the present government to put in such a law. We believe you started out from something well intentioned. But our perception and the feeling of the effects are that the law affects our livelihood. We all know that this is

a time of unemployment and underemployment and not a time of full employment.

The last point is public opinion. We feel the government should respect the people's will and expressed opposition to the act, as shown in most public opinion polls.

Regarding the present status, if you come to our community you will find that we are nervous and confused about both the present and the proposed legislation. Even the police are making contradicting interpretations about the law. Right now in Chinatown you have police running around, playing the role of a judge they do not even know of, telling us what the law means. Some police will tell us, "If you close one weekday, then we'll let you open on Sundays." Some people say, "That's not so." Then we have some other police telling us: "If you're operating a bookstore it's okay to open, but don't let me catch you selling pencils and stationery. If you don't hide them, I'll give you a ticket." So that is the way it is now in Chinatown.

To conclude, I am here today to inform you of our viewpoints and position, because we believe an informed government is an enlightened government and legislation that reflects the people's needs is enlightened legislation. This is our way of supporting the government. We are grateful that you provide us this opportunity, and please feel free to contact me or other members of the committee if I can be of any further help. And one last note, if political realities dictate that there be some kind of Sunday shopping legislation, let's formulate it in a way that causes least inconvenience to our livelihood. Those are my comments and I am open for any questions.

1640

Mr Daigeler: Thank you very much for your presentation. I was wondering, in your tradition or in your community, is there such a thing as a concept of a common pause day?

Mr Woo: Not really, other than in the general statement we work hard and we play hard. Other than that, there is no such thing as specific. But we know the importance of having a balanced life. We believe that, and we place great value in family togetherness. But I am seeing some danger here that when we use the term "good for the family," if that is the case, maybe one day we will have a law banning divorce, which might even do better for the family.

Mr McLean: I thank you for your petition and your comments. Is Chinatown open now on Sunday, mostly, or just specific stores?

Mr Woo: Mostly, but nobody dares to say, "I am open because I have the right," or "I know the law so well that I can open." There were stories that some new residents or new immigrants were watching out for the police and then they were screaming that the wolf was coming, and then they found out it was only a taxicab driver with a cap or something who resembles a policeman. So that is the comprehension and it is a very nervous and tense atmosphere, and I urge members of the committee, if you have time, to come down on Saturday and Sunday, particularly on holidays, and come in and take a look at how nervous they are, and talk to them.

Mr Mills: I was under the understanding that certain segments of Chinatown now are designated a tourist area. Is that correct?

Mr Woo: That is the general notion. I think those people have a greater confidence opening, those people within that so-called designated tourist area and who are selling tourist-related material, which is very specifically defined. I guess you cannot sell shoes or clothing, even though one can claim it is for a gift. So it is pretty confused and we do not really understand the law, both the present and the proposed one.

Mr Mills: It was my understanding that there was an area designated as tourism, Chinatown, and all I was going to say to relieve any anxiety you may have about the legislation changing that is that what is in place now will stay as it is. There will not be an application needed to be made to get the tourist designation, because what is in place now is in place. If that is going to help you, your worrying about this, that you think the right to work, the freedom to choose a day, is in jeopardy, it is not.

I feel very restricted in this way of questioning. You ask the question and then you cannot say any more and it is not really conducive to good debate here.

The Acting Chair (Mrs Haslam): But I am giving you leeway right now, Mr Mills, and it is because I can see agreement from other members. So I appreciate what you had to say.

Mr Mills: I was going to say some more things too, but I cannot.

The Acting Chair: Well, no you cannot, not until I offer that same opportunity.

Mr Poirier: Mr Woo, with what is proposed, the way municipalities will have to decide what qualifies as a tourist business, what do you see happening in your community? You seem to point to confusion right now. Could you explain to me what you would see happen if the present propositions come forward so that municipalities decide, "Your business is tourist-oriented but not that one." What would you see happening? How would you react?

Mr Woo: I believe the criteria of tourism is a good step if the legislation has to be in place somehow, because it helps to reduce some confusion. At least there are some certain criteria, which we did not have before, thanks to the hard work of people in the Solicitor General's office, who have kindly met with us. I am giving them a compliment that I feel they deserve.

But the thing is that I cannot answer the question. For example, people say: "Okay, now we are in the tourist area and we are being approved by the city council or any municipalities, but can I sell clothing? Can I sell shoes?" That I do not know how to answer. I do not know whether anybody can tell me. Those are our concerns. We say, even though we are qualified as a tourist area, are we only limited to those "tourist-related merchandising services"? That is an example of confusion that I do not know how to answer. I do not know whether anybody in the room or any staff from the Solicitor General's office can shed any light. If we can, I think it would be acceptable, because then we can always try to apply. There is a way. We worry that

there is no way to apply, because, stated clearly, we are out of luck, "Why did you choose to go into the shoe business or clothing business?"

Mr Carr: Thank you for not only taking the time but for the amount of work you must have done to get the signatures. I applaud you for trying to get the information out to the members of your community.

One of the questions I have is along the same lines, that if we make it a situation so that they are going to go before councils with regard to getting exemptions, we have heard from different associations that say the red tape is time-consuming and very difficult and they have better things to do with their time to try and survive in business than be sitting in front of politicians, which certainly can be very tough at times. What extra problems are there for your community—I am thinking in terms of language—in dealing with, say, Metro council? They are confused. Is part of it not knowing what to do or how Metro council will operate? Is that what you are trying to say the difficulty will be?

Mr Woo: That too. We really do not know who to contact. You will notice that in this case our organized groups in the Chinese community are not that vocal, I think partly because they do not know what to say or to be happy about or to be angry about. We just do not know. We find it difficult to understand the legislation. We find it more difficult to see whether we should apply to the Metro council or to city council. Unfortunately, most of us believe that: "Hey, we know the cops. They won't give us a ticket." I do not think that is really too valid a point.

Mr Carr: This is not another question, but if it would help, I know you offered to get together. I would be pleased to try and help you out as best I can afterwards. So maybe we could do that, depending on what happens with the legislation. I think all members would be willing to do that, but I would be pleased to help out.

Mrs Haslam: Or somebody from the ministry. I am sure he asked for a ministry clarification and the Chair—

Mr Carr: Well, no, if they have to go to Metro council, the ministry is not going to help them to go to Metro council and things like that.

Mrs Haslam: Oh, that too, yes, but right now for the confusion.

Mr Woo: So it is not city hall we are talking about now.

Mr Carr: Yes. I am saying when you do have to go city hall, if in fact so many members have to go before municipal council or whatever, we would help out and I am sure any of the members would be pleased to do that.

Mrs Haslam: Your local MPP.

Mr Woo: Also, I noticed—I even flipped through the whole agenda—there are very few participants from the Asian community, whether they are Koreans or Indians. I cannot read their minds, but I do know that probably some of us do not want to attract unnecessary attention. I think the fact I am here maybe hopefully would dispel some of that doubt. It is unfortunate that we are not more vocal, so we have our responsibility that we should bear as well. But I am very grateful for the opportunity to be here.

1650

Mr Owens: Mr Woo, I do not know if you can provide the committee with an answer today and you may want to go back and speak to your colleagues in the community, but I would be interested to know what kind of recommendations you would be wanting to see to help us make this legislation more culturally sensitive to groups like yours and other groups out there in the province that have expressed similar concerns such as you have.

Mr Woo: Two suggestions, one general and the other one specific. Let me go with the general.

I feel that it would really help if some members of this committee continued this kind of consultation process with members of the Chinese community by including coming on Sundays for dim sum and chatting informally about what they feel. Do they really feel that strong, or you might even find that some of them are really scared, thinking life is already difficult enough with the recession.

The other specific recommendation is that maybe we should put more attention to the local—I think it is good to pay attention to protecting tourism. Maybe you people can also pay attention to the local community needs. I think that might help, or at least that might be productive in terms of being culturally sensitive.

It is really disappointing for me to see there is no Asian output there, even a more vocal output. We have so many organizations there and just everyone seems to be watching for, waiting for something more concrete. I think by this time you might be too late.

The Chair: Thank you, Mr Woo. Further questions? Mr Poirier.

Mr Poirier: Maybe they are like MPPs, Mr Woo; they always like to keep a low profile. Who knows?

I look at your petition beliefs here, and to follow up on the question that Mr Owens had, what I read in your petition beliefs, I see recommendations as to what you would like to see. Reading between the lines of your petition beliefs, it would seem to say that you do not believe, or maybe the principle of a common pause day does not, pardon the expression, rest well with the cultural traits of your community in the sense that for you a pause day does not necessarily have to be common with the Sunday. Do I read that correctly?

I am trying to interpret what you are asking us. I am trying to look at the possible recommendations following your request for how we can help to make it better. What do I see? Can you interpret for me your petition beliefs? If you had to write the law or rewrite the law or make some amendments, what would you add or subtract from what is proposed? Would you remove the common pause day provision? Would you give total freedom to choose whenever you want to open, whoever wants to open, wherever one wants to open? Is that what I read in your petition beliefs?

Mr Woo: Number one, to respond to your question, we believe it is important, as I said before, to have a balanced life, both work life and non-working life, to relax and to be with the family.

Number two, the "common pause day" is really a new concept because for most Chinese, although we have a lot of Christians and I am one of them, it is a new concept.

We are here to express our viewpoint. But we want to be part of the mainstream. We do not want the law to be specifically written to protect us as a group of Chinese. We believe that position is both dangerous and not conducive to national unity. We are open to any refinement so that there will be some kind of "common pause day" or some kind of rest if the community needs are being served. That is as specific as I can get without getting into partisan politics.

Mr Poirier: You still want the freedom to open on Sunday, though, do you not? Is that what I understand?

Mr Woo: Yes.

Mr Poirier: You want to decide if you open on a Sunday, yes or no?

Mr Woo: We prefer to be able to work on Sundays, yes, unless you or other members of the committee can tell me, that for the overall province it is just not fair or not viable or not proper to open on Sunday because it carries certain disadvantages which outweigh the freedom to choose and the right to work.

Mr Poirier: Okay, thank you.

Mr Carr: The only other question I had was with regard to when you put this 40,000 petition together, would that have been people who were in all segments of the industry? Did you go after specifically somebody in the tourism area, for example, or was it anybody in particular that you got? How did you get all these names?

Mr Woo: We mostly gathered those names from Chinese communities in Chinatown, the downtown district, in Mississauga, in Scarborough. Those are the major areas.

Mr Carr: So they were not just people in the industry, say, the tourism-related industries like hotels and so on? They could be in any industry?

Mr Woo: Yes, they could be in any industry. What we do is we tell people to sign their name if they agree with the petition letter which stated eight beliefs. Those people who do agree sign their name.

We do not really actively persuade people to sign it, for one thing, because of the lack of manpower and, second, we believe that our beliefs are so commonly shared that we really did not need to do that much. So nobody got paid to be a volunteer. We put up some tables in shopping malls and every time the police came and the shops closed, at least temporarily, we could see there would be an increase of signatures during that period.

Mr Mills: Mr Carr touched on a couple of things I was going to mention. The 40,000 signatures are not necessarily 40,000 signatures from people that are in small business. They would be perhaps people who are employed in the hospitality industry. Would that be correct?

Mr Woo: They might be.

Mr Mills: They might be. But they are not so-called bona fide businessmen, these 40,000 signatures?

Mr Woo: It is open to the public, so—

Mr Mills: The public, okay. Having said that, what are we talking about in the people that you are representing? My perception of the type of store you have is small, probably less than 7,500 square feet, and the people who work there are mainly family or relatives. Would I be correct in that assumption?

Mr Woo: Maybe half and half.

Mr Mills: Half.

Mr Woo: Yes, some are family—

Mr Mills: But they are not big store operators?

Mr Woo: No.

Mr Mills: Do you have any big ones over 7,500 square feet, bigger than a Shoppers Drug Mart?

Mr Woo: Maybe very few, Chinese supermarkets. I do not know. My mathematics or my judgement is just not that great.

Mr Mills: I am trying to help you come to grips with this amendment in that perhaps your perception of it is a little different than what it is all about. Perhaps that would explain why the Asian folks are not coming forward too much, because they do not see this as a threat to their way of life because they are all small, mainly family people.

What the thrust of this is, we are trying to protect the retail worker per se, and I do not think many so-called retail workers fit into the category of the type of business that you are representing here as opposed to what the general idea is: A&P, Loblaws, that type of thing. These are people who would be family, relatives and you would be a very close-knit group in a small store. Would that be the general idea of the type you are representing?

Mr Woo: I think we too employ people who are not relatives. But your statement is well taken. I guess I get your point.

Mr Mills: Yes. I just think, sir, in all fairness to you, that your concerns maybe are a little bit overrated, and that really explains the absence of your fellow compatriots here. Maybe I will talk to you afterwards. Thank you.

The Chair: Thank you, Mr Mills. Thank you very much, Mr Woo.

1700

CANADIAN SHOE RETAILERS ASSOCIATION

The Chair: We now have a presentation from Ms Sharon Maloney, who is the president of the Canadian Shoe Retailers Association. Ms Maloney, I notice you have been here with us for a little while, so you know what the routine is. Take as much time as you wish to. It is entirely your own, but typically it is half for your presentation and half for questions from the committee members. Proceed as soon as you feel comfortable in doing so.

Ms Maloney: Thank you, Mr Chairman. I would like to thank you and members of the committee for giving me this opportunity to meet with you today. My apologies. Unfortunately I do not have a brief for you because of very short notice. I will endeavour to provide you with a brief later this week, and if there are any questions that are not answered today, I would be happy to come back again or answer directly any questions you may have.

Perhaps I could just give you a brief history of our association. The Canadian Shoe Retailers Association is a national trade organization. We represent in excess of 2,500 footwear retailers across the country, with our largest membership being in the province of Ontario. Our membership is made up of family shoe stores, independent operators and chains. We do not represent discounters nor do we represent department stores.

The association has been actively involved, I would say, for approximately 50 years in this province in fighting Sunday shopping. I was past executive director of CAOSS, which is the Coalition Against Open Sunday Shopping. I am currently a committee member of Fairness for Families. As such, I have had alone probably five years' experience watching this issue, from the time when the Conservative government considered introducing new legislation to open up Sundays, to the time when the Liberal legislation was brought down, to date.

I think our members could be of interest to you. I have heard a lot of discussion today about workers. I have heard a lot of discussion about large employers. What I have not heard very much about is small employers, independent operators. The gentleman who was here from Tourism Ontario talked about the fact that there is no necessity for people to work seven days a week. In point of fact, with our membership, that is the very reason why they have been so aggressive in fighting this legislation. Most of our members' businesses are family-run businesses, which means they are already working six days a week. If they are forced to open because of competitive pressures, because there is Sunday opening, they will be forced to open seven days a week. It is very clear in their situation that they will not have the luxury of being able to stagger their hours because anyone who is aware of small business recognizes that one of the most important things to small business is the fact that the independent operator or the owner be in place, and that means even if they curtailed their hours, they still would have to be there seven days a week.

We applaud this government for making its attempt to bring in this new legislation. We recognize how difficult the issues are. That being said, we do have concerns with the legislation. We recognize that they have tightened portions of it by including in the preamble to the act the recognition of a common pause day. We recognize that they have made it tighter by introducing tourism criteria that were lacking in the previous legislation. We also recognize that only retail businesses can make application for a designation, which we think is positive.

That being said, the legislation in our view has two major flaws, the first being the retention of municipal option. It is our understanding that there is concern or there was concern when this legislation was being drafted with the recent Court of Appeal decision which endorsed the municipal option. We have always been proponents of provincial control on this issue, the reason being that we believe if you do not have some form of consistent application, you will end up with a checkerboard treatment of the issue because of the variety of interpretations which can be created and implemented by various municipalities. This in our view is particularly so when the tourism criteria

which have been proposed are reviewed. Unfortunately, we feel that the tourism criteria are so broad you will in any case end up with a varied interpretation of the criteria. As well, in many instances, if not in most instances, you will end up with wide-open Sunday shopping across the province.

We believe that the intention of this legislation and this government is to preserve a common pause day. We believe it can be done, but it can only be done if those two areas are addressed and if the general guiding principle is tightened in the legislation.

I would like to comment as well on the fact that different communities have been telling the retail community it should be open on Sundays. I have heard today people from the tourism community. I have heard people from the development community. Unfortunately, rarely has the retail community been surveyed. The material I have provided to you today is the only survey we are aware of where the retail community itself has been surveyed. I think its results are quite revealing. I also would suggest to you that if the retail community was surveyed, the majority of the retail community would not be in support of wide-open Sunday shopping.

It is particularly important to note that our association is the only retail trade association that I can see you are going to be hearing from. There are a couple of reasons for that. Unfortunately, Retail Council of Canada, the association I am sure you are all aware of which represents retailers across the board, is not in a position to come and give a brief to you because of a conflict within its own particular association. Moreover, there are very few retail organizations which are trade specific, ours being one of the few. As well, because we are retail specific, we do not have the conflict within our membership which some of the other trade associations do, and our membership has been telling us overwhelmingly, I suppose for over 50 years, that they do not support Sunday shopping.

I might add that the membership we have in other provinces across the country is also of the same view. Unfortunately, because of the size of our organization we were not able to lobby as effectively as we would have liked in those other jurisdictions. But our members in Alberta and British Columbia, which are often held up as examples of the great success of Sunday shopping, have repeatedly told us both in polls and in conversations with me, my members and board members, that they are finding it extremely difficult to operate in that climate, especially if it is a family-based business and even if it is a franchise, because franchise operations are usually limited to three or four people. So despite what is being held out as being a wonderful environment, in our view it is not the case.

I hope, as you go through the province and you hear from the various trade and other organizations, that you bear in mind there is a community that you may or may not be hearing from, and that in some way you find out from that community, other than the footwear retail community, what its views are on this issue. Thank you.

1710

Mr Poirier: I read with interest this brief, which really is brief which is good. We are talking here—correct me if I

am wrong—about the difficulty of opening seven days a week and the fear of even seven days a week and 24 hours a day. Obviously this is an extreme scenario.

If you are getting away from the principle of a common pause day, what prevents a family-run business like the ones you represent—and from what I read in number 1 here, sales on Mondays and Tuesdays are virtually non-existent—from closing on a Tuesday or Monday and not having the pause day to be common?

Ms Maloney: There are two problems, the first of which is competitive pressures. If your neighbour down the street is open, you are going to be open because I do not know a retailer who is not afraid of losing that possible sale.

The other problem is, if you are operating within a mall, you do not really have that luxury. Even if you have provisions in the law, which we currently have, which prohibit a landlord from using undue pressure to force you to open, the reality of the marketplace is such that if you do not open, either your lease will not be renewed or the amount of rent you have to pay or user fees that you are going to have to absorb are going to be increased. There are a variety of subtle pressures that can be brought to bear on retailers and force them to open.

Mr McLean: You have certainly brought a new perspective to this afternoon's committee hearing, and I am very pleased to hear it. I hear quite often in the riding that I represent it is the small business people that work six days a week already. There is only so much money to go around in the week, and they think six days a week is enough as well, and I think the same thing. The problem is with the legislation. It is not tight enough to make it fit with what we would like to see.

The city of Orillia passed a bylaw to allow Sunday opening. I am willing to say there are not 10 stores that have opened, although they could all be open. But there are not 10 stores, because most of the businesses are family.

You certainly have brought a different perspective to it, and I would like to see more follow-up on this very line because there are an awful lot of family businesses in Ontario that work six days a week and do not need the seventh one. I find that the legislation is not going to allow those people, when you get city after city declaring open—it is going to filter down that those small businesses are going to finally have to open. That is where I see the problem.

Ms Maloney: I agree. I might add to that, especially if you start looking at the border communities, many of our members are located in the border communities, and I know there has been a lot of attention paid to the correlation between cross-border shopping and Sunday shopping. In our view, there is no correlation. You have all heard the variety of reasons and we agree about them. One of them specific to footwear is the differential in tariff treatment between ourselves and the United States.

That being said, we are of the view that one of the ways of enhancing border communities is to maintain those independent businesses, that it is really the independent operator who can have and has the potential of being more creative, of participating in the community. Traditionally they are very active in their communities. If they

are lost, then you really are going to have a problem. To impose Sunday opening on them is to impose another operating expense where there will not be additional revenue, which we feel ultimately will mean that this market, which is already small—the independents only have 25% of the overall national market—is going to be further eroded, to the detriment of all of us, in our view.

Mr Fletcher: I will get myself organized here. Thank you, Sharon, that was a very good presentation. I understand the concerns you have with small business employees who mostly are family members. I am just wondering about the municipal option. When you are talking about it, would you like to see it totally thrown out, or do you have some suggestions on how to make it work, if it were up to you?

Ms Maloney: If there were a Santa Claus, frankly, I would prefer to see this kept at the provincial level. When I was part of CAOSS, that is really what we were advocating: leave it at the provincial level. That is the only way you can control the environment and be able to resist the variety of interpretations we think clearly would come with municipal option.

That being said, I understand the sensitivities that anybody would have in drafting legislation, given the current decision of the Court of Appeal. I am not in a position to argue the pros or cons on that. If we are working within an environment where there is going to be municipal option, then there has to be some kind of check to the powers that are created by doing that. That means either you have an appeal process from the municipal level up to a board delegated to deal with the issue specifically, or you have an appeal process to the OMB and you have certain people sitting on the OMB responsible for dealing with this issue.

Mr Poirier: On that very point, one of the difficult things legislators have to cope with is the provisions of the Charter of Rights and the Constitution, between what we would like to see and what we must write in a law. Because nobody, no matter which party, likes to sit down, spend a heck of a lot of time listening to people and whatever, then write down a law, only to get it chucked out of the court. Lord knows it is enough trouble to write it down. You do your best because these days every time you write a law you have to think, will it withstand the ultimate test of the Supreme Court of Canada?

In light exactly of what courts seem to have been deciding pertaining to this, it seems to become more and more impossible to think of a law that applies province-wide no matter what the issue is. What I am saying also in this particular domain—and I gather from your initials you are a lawyer yourself and obviously must be familiar enough with the type of decisions that have come forward and probably will come forward even more directly from upper courts pertaining to this dossier. Do you honestly believe that a provision for a province-wide set of rules, whichever ones they are, would really stand a Supreme Court of Canada test pertaining to Sunday shopping?

Ms Maloney: Yes, I do.

Mr Poirier: On what are you based?

Ms Maloney: Again I will qualify my response, because my expertise does not lie in the Constitution. There

are two reasons I say I think it could stand. First, I think there was room within the parameters of the decision that came down to allow for provincial authority on this issue. Second, I think the degree of change that has been created in this new amendment, especially with the attention now being placed on the tourism criteria—in other words, we have gone from an act where we had a variety of distinctions being created in the retail community to an act which has said, “We’re going to throw out a lot of these variations and some of the qualifications and what we’re going to say is that it’s based on tourism.” That is a new peg on which your hat can be hung to justify the interpretation of this bill and allow it to withstand a constitutional challenge.

Mr Poirier: You think it will.

Ms Maloney: I think it could. I always qualify my answers.

Mr Poirier: You must be a lawyer.

Mr Carr: Thank you for taking the time to come here. One of the questions I have is how it will affect your members if in fact we end up with side-by-side municipalities, one open because it is classified under a tourism exemption and the other one closed. What do you see happening? Do you see the one that is open, your members saying, “We’re still not going to open because the neighbouring one is closed”? Do you then see the neighbouring groups being hurt? How will that happen if in fact we do have competing municipalities, one open and one closed, side by side?

Ms Maloney: That is a very negative and very real possibility with the legislation as it currently stands. That is why we were so opposed to the municipal option in the first place, because we knew once you started bringing in that type of legislation, you would set up a whole host of competitive pressures.

Mr Carr: Then it will snowball.

Ms Maloney: That is right. I think the intent of this legislation and the fact that they have brought in tourism criteria has certainly narrowed the field. It has not narrowed the field sufficiently and in order to prevent what you are suggesting, it has to be much tighter than it currently. Otherwise you will end up with that situation and it will put a lot of pressure on retailers, not just footwear retailers but any retailer who is residing in the jurisdiction who may not, frankly, want to open, but when he sees that he is losing sales is going to have to start agitating and ask his respective municipality to give him a designation as well. So in effect, if you do not draft it clearly enough and tightly enough, you will have not avoided the very problem you have set out to try to avoid.

1720

Mrs Haslam: I am so impressed. You seem to have such a handle on this. I have been looking at this and you really zero in on what is good in the legislation. You have certainly emphasized where you feel we should be tightening it up, and I would like to go into some of those things that you have been saying.

Mr Mills: One item; you said “some.”

Mrs Haslam: Well, there are so many in the criteria and that is where I look. I come from Perth county and Stratford has a festival there. I am in a very tourist-oriented area, so these criteria are very important to me and how we write them up and how they allow exemptions in a particular area such as mine. So I will pick one area, and this is not the one I would maybe choose for my own riding but is one that seems to be batted back and forth here today, and that is, in particular, the size and the number of people. Now that is in your subsection, so that once you have met the main criterion of a geographical area and once you have met the main criteria for a tourist exemption, then you start looking at the size.

I wonder if you would like to comment on that. I will preface this with a few more remarks. One of the other recommendations, and this came from the UFCW, was for the drugstore to be 2,400 feet and four people, including the pharmacist. So I would be interested to know what you felt would be something we could look at in this area.

Ms Maloney: Let me divide, your question if I may. I would like to answer it.

Mrs Haslam: Oh sure, go ahead. I can only ask one question, though.

Ms Maloney: On the one hand dealing with pharmacies and on the other hand dealing with the other aspects of it.

Mrs Haslam: No, I am saying that is what has been said. I would like some input from you there.

Ms Maloney: Okay. My comment with regard to the pharmacies, first of all, would be that one way or the other we have to return to a level playing field in regard to the grocery sector. My recollection of this issue has been that the reason we have all ended up here today is the very large exemption which was given to the pharmaceutical sector, as well as the fact that in the current legislation, even as it stands, there is a broad definition of “sundries.” That has allowed the pharmaceutical sector to go into an area that is hotly contested by the grocery sector.

One way or the other, be it by size or be it by a restriction of the definition of product which can be sold by the pharmacies, that has to be addressed, because I think until it is addressed, you are going to continue to have very strong lobby groups and with some merit, I think, given the clear differential that is operating between pharmacies and groceries advocating that there be a change and that there be a complete removal of common pause day legislation.

In so far as there is a size restriction within the tourism designation, I have difficulty with it from a retail perspective, and the reason I do is that it is very difficult to decide whether somebody is offering something for a tourist on the basis of how big it is. I do not think that retail breaks down on the basis of how large you are in providing certain services.

I also think that within these communities it could create a lot of difficulty. Suddenly we are going to have one store that is selling boxes, and it is 4,000 square feet, and the store across the street is selling the same commodity but it is 4,500 square feet, but it cannot open. I see that fraught with hazard.

You are shaking your head.

Mrs Haslam: I just need clarification, because that is not what I understand.

The Chair: Thank you, Mrs Haslam. Mr Poirier.

Mrs Haslam: Ask for clarification, Mr Poirier.

Mr Poirier: I would be willing, out of charity, to give my time so that she can ask her clarification point. I mean, she has such a way of putting it through. Go ahead. I will give my time to Mrs Haslam.

Mrs Haslam: That was interesting, on a clarification. Thank you, Mr Poirier. What a wonderful gentleman you are.

I wondered about clarification from the ministry, because that was not my understanding. There were other criteria to be met and size was not only that. What I wanted to know was clarification on that particular point. It was not that two stores of different sizes could sell the same product; there were other criteria to be met.

Ms Maloney: Okay. The proposal, as I understand it from UFCW, is that there be a limit within the tourism designations that only stores below 4,000 square feet could operate. What I am saying is that if you have a retailer who is operating within an area that has been designated as a tourist area, on top of that you are adding a new level of requirement, which is that you cannot operate if you are greater than 4,000 square feet.

In that situation I can see a lot of conflict developing between some retailers who are operating within that area but cannot open because they do not meet the size restriction. I see that as problematic, although I recognize perhaps from a drafting position why it is being introduced. But certainly for our members, I think, it would be problematic, because if I have a member who is selling footwear out of a location that is 5,000 square feet, and may be selling athletic footwear, he cannot open, but his colleague across the street is selling the same footwear but is only 2,500 square feet. That creates a lot of problems.

Mrs Haslam: Okay. Thank you for that clarification.

Mr Carr: One of the questions I have is one of your comments about the different retail groups that will not be represented here, presumably because they are divided on the issue; whatever percentage, they do not feel they speak clearly. As a result of some of the groups that are going to be affected and are not going to be represented here—and you are lucky, I guess; in your group there is a consensus—is there any way that you see getting around that, or are we just going to make the decisions? We wonder why it is a tough decision when the groups affected cannot even decide. Is there anything else you would suggest could be done, or do we just leave out a significant portion of the affected people who are not going to be represented? Having dealt with it yourself, how would be the best way to handle it?

Ms Maloney: I think realistically the only way you can deal with it is if you attempted to survey some of that community directly, because otherwise you are really not going to be getting any exchange. The Canadian Federation of Independent Business does have independent retailers within its membership, but it is again not specific. The retail council is specific, but it is not specific just to small retailers, or apparel and footwear, and it does have a conflict. I think

really the only way you could achieve that is to have a survey or a poll done, either through the CFIB or through ourselves or some other group that has some liaison with them.

There are other sectors. For example, the apparel trade does have a trade association which represents the exhibitors and they interface a lot with the apparel retailers, so you could go that route in terms of their trade shows to be able to canvass them and find out what their position is on this issue.

Mr Carr: It is just that it is very difficult. I guess you have gone through a lot of problems and a lot of organizations are going through the same thing.

Ms Maloney: Alternatively, this last survey that was done is another source of polling again the retail community. I think what is important is that whoever is being used is objective and is not bringing to the survey positions on the issue.

Mr Owens: Ms Maloney, in your one-page handout, in point 3 you make a very interesting point about retail operations that take place in malls. This has been a problem that I have had in dealing with some of the small business people in my riding. If we were to pass this legislation as is with the tourism designation and a mall lobbies and is successful in winning an exemption for the area, then if you have your mom-and-pop operation, which I similarly agree is already open six days and does not want to be open the seventh day, what kind of protections could you see the committee recommending to ensure that this retailer is not going to be in violation of his leasehold provisions and have it cost him additional moneys?

Ms Maloney: I think the problem with that is that you can put very stringent restrictions into your legislation, but they will always and can always be circumvented. The only way of avoiding it was and continues to be to have common pause day legislation which is based more on the different retail communities than on tourism. Having introduced the tourism criteria into the equation, it is next to impossible, in my view, to safeguard it. You can tighten up the provisions that are already in the act, perhaps provide a fine process in the event that a landlord is shown to be abrogating or breaking the legislation, but the reality is that most retailers will not put themselves in a position, be they small or large, to go head to head with their landlord.

Mrs Haslam: Thank you very much, Ms Maloney. I was very impressed with your presentation.

1730

REGIONAL MUNICIPALITY OF YORK

The Chair: Mr Oakes, you have been with us a little while, so you will know a little bit about what is happening. We have your submission, so please feel free to read however much of it you wish to, and hopefully it will leave some time for questions from the committee members. Please proceed when you are comfortable in doing so.

Mr Oakes: Thank you very much, Mr Chairman. I would also like to thank the members of the committee who have stayed to this late hour. I hope I can make your dedication worth while.

I represent the regional municipality of York, which lies immediately north of Metropolitan Toronto. It extends from Steeles Avenue in the south to Lake Simcoe in the north, and from Durham in the east to Peel in the west. It is included in the area that is now known as the greater Toronto area. Obviously we are going to be affected by what happens in Metropolitan Toronto, as well as what happens to our neighbours on the east and west. I personally have been engaged in processing applications for exempting by-laws since 1975, when this legislation first came into effect.

I want to deal first with a couple of matters of principle. We feel that it is helpful to understand anything if it is accurately described. I must, with great respect, say that to describe this legislation as providing a common pause day is simply not accurate. A common pause day, in ordinary parlance, would mean a pause day available to all in common. This legislation does not do that at all.

I am not taking any position as to whether a common pause day would be a good thing or a bad thing. I am simply pointing out that this legislation does not accomplish it, and could not accomplish it unless the ambit of the legislation were very considerably widened. The legislation applies to only one area of economic activity within the province: retail businesses. It ignores all the others. It is simply intellectually dishonest to promote this legislation by saying it provides a common pause day.

The second point I want to deal with, again on principle, is workers' rights. The legislation purports to give workers in the retail business industry an absolute right to refuse holiday work. There are two points to be made here. First, following from the first point, the protection is given only to workers in retail business establishments. Workers in other areas of employment are not protected by the legislation.

Second, the act protects the rights of workers in the retail business area who do not wish to work on holidays. There are no doubt many workers in this category. Our municipality extends up to the Holland Marsh. Just to take one example, the Dutch Reformed Church is very strong in that area and followers of that persuasion are very much opposed in principle to religious holiday work, and they are protected by this legislation.

However, in the public hearings which our council conducted on this legislation it became apparent that there are many people who are willing to work on holidays. Many of them came before our council in support of applications by individual businesses and areas for the holiday opening permission. The rights of these workers are unduly restricted, in our submission, by the mandatory closing provisions of the legislation. I say that because the retail business is traditionally a business where people who wanted to work on holidays were afforded an opportunity of doing so. By closing certain of these businesses on holidays, these people who are prepared to undertake holiday work, are willing to undertake it and, in some cases, rely on it for income, are unduly restricted, in our submission, in the areas of employment that are open to them.

If the mandatory closing provisions were deleted but the right of workers to refuse holiday work retained, the legislation would protect the rights of both categories of workers. This would be in the spirit of the former One

Day's Rest in Seven Act, which provided mandatory time off for workers and which also provided, if I recollect correctly, that—I am not sure of the exact wording—where possible or where practical, the time off was to be given on Sunday. It protected the rights of the worker in that regard, but it said nothing about making businesses close. So if this act could be structured along the same lines, it would be in the spirit of that former legislation.

In regard to the municipal option, I do not think our council particularly likes the way it is structured by this legislation. But our council, the York regional council, also feels that if there is to be a decision-making body which will decide which businesses can remain open, then it wants to be part of that process. It does not want to be excluded from it.

1740

The next point is floor area and staff numbers as providing criteria for holiday opening. I think even the most cursory examination or consideration will indicate that there really is not anything in the floor area of a store which argues in support of its being open or closed on a holiday. As soon as you put any floor areas into the legislation and establish them as criteria, you are going to have stores that have slightly more floor area and are not different in any way, shape or form, except for a few square feet, from the other stores and will be wondering why they are being discriminated against. I am not criticizing the 2,400 square feet, because if it were 2,500 or 5,000 or any other number, in principle you would be left with the same result.

Why should the employee in a store that has 2,400 square feet and who is willing to work on holidays be told he cannot do it when an employee in a store having slightly less than 2,400 square feet is afforded the right? It also makes a rather awkward enforcement problem for police officers in the stores that are on the borderline or the boundary. They do have a difficult problem which maybe has not been apparent to you people: they have to go in there with a tape measure. You are going to have to prove in a prosecution that the store is outside of the permitted square footage area. In an Eaton's or Simpsons department store, sure, it is easy, but in stores that are close to the border it is a very difficult enforcement problem.

The criteria, I might say just in passing, ignore ownership. You could have a chain operation with any number of stores. As long as they were all within the criteria, they could open, whereas a single family-operated business that was just slightly over the permitted floor space would be required to close.

The next point I wish to make is the effect of the law on medium-sized businesses. I should state the basis of my knowledge. For the past 16 years I have been getting telephone calls, letters, visits from people, invitations to go out and inspect their businesses. I have had to go out throughout the regional area and inspect a great many businesses where people have applied for the holiday opening. Over the 15 or 16 years that the legislation has been in effect, I have picked up some information on the subject.

Something that has been stressed to me is that the act has a rather severe effect on medium-sized businesses. Establishments that meet the floor space criteria are not very

much affected because they are permitted to stay open. Similarly, the very large establishments have the physical size which enables them to do dollar-wise and customer-wise approximately the same volume of business in six days that they could accomplish in seven. If they can attract the customers, they have the physical size to handle them, enough cash registers, enough space so that they are not getting excessive lineups and the people are not unduly inconvenienced.

But the medium-sized businesses, and a number of them have pointed this out to me, are not in that category, especially in the food business. They simply do not have the floor space to enable them to accommodate seven days' business in six days. It seems to be a feature of your average retail customer that he or she will loiter for long periods of time in the aisles. But once they get to the cash register, they object to standing. They want to get through. If they have to stand what they regard as an undue length of time they will not come back. The point has been made to us that there are these medium-sized businesses with perhaps three or four cash registers that simply cannot physically accommodate the seven days' business in six days, and if they are required to close on the seventh day they will be adversely economically affected.

The point has also been made to us that some of these businesses cater to what is termed sometimes as the ethnic clientele. They sell specialty products, and the people who want those products will drive relatively long distances to get them. Some people will drive 20 miles to get the right bread they prefer, or the right cheese. They will not do it on a weekday; they simply have not got time after work. Apparently they are reluctant to do it on Saturdays, because there are so many other things they have to do on Saturdays. Sunday, for some of these people, becomes a more relaxed shopping experience, and they will take the drive with the family. If the business is not permitted to be open on Sunday, the customer is inconvenienced and the business will lose customers.

The next point relates to the public hearing, which is a requirement of the statute. The initial 1975 legislation had no requirement in it that the municipal council had to conduct a public hearing or a public meeting before it passed an exempting bylaw. Perhaps this was because the Legislature realized that in Ontario bylaws can only be passed by municipal councils at public meetings. The meeting of a council that passes a bylaw has to be a public meeting.

The 1989 amendment required a public meeting as a condition precedent for the passage of the bylaw. The present proposed amendment deletes that but requires a public hearing. Any lawyer will tell you that the two terms are not synonymous and that the legal requirements relative to a public hearing are much more onerous than the requirements relative to a public meeting.

This was the consideration that the Legislature was faced with in 1983 when it was considering the Planning Act. Initially it had been proposed that an official plan and a zoning bylaw could be adopted by a municipal council only after a public hearing, and as a result of the representations that were made, the word "hearing" was changed to "meeting." I do not know why the word "meeting" is proposed

to be deleted in this current amendment and the word "hearing" substituted, but I would respectfully suggest that you go back, if you want to have any provision of that kind, to the word "meeting," because if you introduce the word "hearing," it is going to be productive of legal challenges based on procedural requirements that the law mandates when hearings are required.

The statute presently requires publication of notice of the public meeting at least 30 days before the meeting is to be held. There are two points I would like to make here: If you are going to have a public hearing or a public meeting requirement, it would be advisable to put in something about notice. Specify what notice has to be given, because if you do not, the legislation will be subject to challenges on the basis of insufficiency of notice.

I am not saying that the 30 days is a good requirement. It is perhaps appropriate if you are dealing with a very large-scale application for an exemption, say in the case of a large shopping mall. You would want to give adequate notice so that there would be a wide dissemination of the proposal, and people would have a chance to prepare their arguments for and against. But many of the applications that come before the council are for very small business establishments that have only a very limited local effect. In fact, a surprising number of applications are for one-day special event-type things: a charity promotion, or something of that nature.

These people uniformly are not aware of the 30-day limitation, and they come to you two weeks before the event or three weeks before the event or even 30 days before the event, and many of them are applications which I feel the council would consider favourably if they were permitted to do so. But these people have to be told, "Much as we like what you are trying to do, we cannot accommodate you because you have not come in time."

1750

The 30 days in practice for a municipality, when you look at the requirements for preparing an advertisement, putting it in the newspaper and then waiting for the next municipal council meeting, can stretch to almost two months. If a guy comes in today and says, "My meeting or my event is going to be 30 days from now," there is no way. Even if he gives you 40 days, it would be very, very tight. So it is much longer than 30 days, and I do not know what the answer is.

The suggestion I am making is that if you are going to have a meeting requirement, perhaps you could consider replacing the 30 days' notice with a requirement for newspaper publication of the notice to provide the public, in the opinion of the council, with reasonable notice, something of that nature, which would enable the council to discriminate. When they get, say, a large-scale application, it would give more notice, and when it gets a small application for a very limited time—you know, the merchants in Stouffville want to be open on July 1 for the strawberry festival or something of that nature—they could deal with that on shorter notice.

Charity functions: The statute makes no provision for permitting businesses to be open on holidays in connection with charity functions where the proceeds are to go to

charity. I have had, by coincidence or not, four of these applications in the last 10 days, and in no case did they come with the required 30 days' notice. They were simply unaware of it, and we have had to tell those people, "We cannot do it for you." I do not know whether council would or would not have done it, but the point is it was not even able to consider it because the 30 days were not there.

I am wondering if perhaps you could give consideration, if you think it is justified, to exempt charity functions—you would have to define it—from the closing provisions of the statute, because it is a fact that in some of the malls or some of the business areas, the merchants do get together and say, "We will stay open on this Sunday or that holiday and donate the proceeds to some charity." It is not accommodated in the statute at present.

Flea markets: The act makes no provision specifically for flea markets. These bazaar-style events—in the initial brief, my secretary spelled that "bizarre" but it has been corrected; there may be some argument as to which word is appropriate, but they are bazaar-style events—are usually held on weekends and holidays, and in certain areas they become very popular. In our area, the Stouffville flea market has gained an almost province-wide reputation. We have had calls from as far away as Ottawa from municipalities wanting to know how we are dealing with flea markets. We are considered to be an authority on flea markets because the Stouffville flea market is in our area.

If the mandatory closing provision is to be maintained, perhaps consideration could be given to flea market exemptions. The stalls in the flea markets are usually quite small, well within the size limitations set out in the act, but the type of merchandise does not always correspond with the types of merchandise that are permitted by the act to be sold on holidays. You have people selling old coins, postage stamps, that kind of thing, jewellery, junk jewellery and things that the act does not permit to be sold on holidays, and if you take them all out of the flea market, sometimes the result is that the thing is not viable.

The tourism criteria: I would like to say here, in principle, that it has always been a mystery to me why the rights or privileges of the ordinary resident of a locality were dependent on what is perceived to be good for tourists or visitors. It just does not make any sense really, when you look at it dispassionately. If a thing is good or bad, it should be good or bad for the full-time resident of the area, and not because it is good or bad for a tourist. His rights should not be dependent on the tourist.

The initial statute in 1975 authorized the enactment of exempting bylaws where the exemption was deemed to be

essential for the maintenance or development of a tourist industry. This provision produced litigation and, in the end, simply did not work. Its failure to work, in my submission to you, was not because municipal councillors did not know what a tourist was. They knew what a tourist was and they knew what tourism is, to the same extent as anybody else knows it. It did not work because the criteria were inappropriate, and I am not saying that any other criteria or condition would have been any more appropriate.

If you go back in time, you will recall that in the very early days the death penalty was mandatory for every offence, even the most trivial. Juries dealt with that by simply refusing to convict. You saw the same thing more recently in the case of the abortion prosecutions. In my submission, what municipalities did with the tourism criteria or condition was the same thing. They would get an application that the local people wanted to support, that they with their knowledge of local conditions wanted to support, and they simply strained the language and did violence to the language of the condition. They made the condition do what they wanted to do anyway, whether it was appropriate or not, and that kind of thing is still going to happen. I do not think the proposed regulations are going to change that at all.

The provision or the condition was taken out of the legislation in 1989, in my understanding, because it simply was not working and was bringing the law into disrepute. The 1989 legislation left it open to the municipal councillors with their knowledge of local conditions to make their decisions on whatever basis seemed to them to be appropriate. We are now introducing the tourism concept again, and I am afraid the result is going to be exactly what the result was in 1975. It is not going to work.

The Chair: Thank you, Mr Oakes. We have pretty well run out of time this afternoon, so I would like to thank you very much for your very considered presentation and, before closing, make a couple of announcements to the committee members.

They are very simply that the first stage of our cross-province tour will start on Wednesday. We should be ready at 4 o'clock. The clerk informs me that there will be a bus taking us to our next locale Wednesday at 4. If anyone is going by means of his own transportation, would he please inform the clerk of that, either there or at any other point in our committee's road show.

Thank you very much. We will be adjourned until 9:45 tomorrow morning.

The committee adjourned at 1759.

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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Chair: White, Drummond (Durham Centre NDP)
Vice-Chair: Morrow, Mark (Wentworth East NDP)
 Carr, Gary (Oakville South PC)
 Chiarelli, Robert (Ottawa West L)
 Fletcher, Derek (Guelph NDP)
 Gigantes, Evelyn (Ottawa Centre NDP)
 Harnick, Charles (Willowdale PC)
 Mathysen, Irene (Middlesex NDP)
 Mills, Gordon (Durham East NDP)
 Poirier, Jean (Prescott and Russell L)
 Sorbara, Gregory S. (York Centre L)
 Winninger, David (London South NDP)

Substitutions:

Daigeler, Hans (Nepean L) for Mr Chiarelli
 Haslam, Karen (Perth NDP) for Ms Gigantes
 Lessard, Wayne (Windsor-Walkerville NDP) for Mrs Mathysen
 McLean, Allan K. (Simcoe East PC) for Mr Harnick
 O'Connor, Larry (Durham-York NDP) for Mr Winninger
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Official Report of Debates (Hansard)

Tuesday 30 July 1991

Journal des débats (Hansard)

Le mardi 30 juillet 1991

Standing committee on administration of justice

Retail Business Establishments
Statute Law Amendment Act, 1991

Comité permanent de l'administration de la justice

Loi de 1991 modifiant des lois
en ce qui concerne
les établissements de commerce
de détail



Chair: Drummond White
Clerk: Lisa Freedman

Président : Drummond White
Greffier : Lisa Freedman



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Tuesday 30 July 1991

The committee met at 0948 in committee room 1.

RETAIL BUSINESS ESTABLISHMENTS STATUTE LAW AMENDMENT ACT, 1991

LOI DE 1991 MODIFIANT DES LOIS EN CE QUI CONCERNE LES ÉTABLISSEMENTS DE COMMERCE DE DÉTAIL

Consideration of Bill 115, An Act to amend the Retail Business Holidays Act and the Employment Standards Act in respect of the opening of retail business establishments and employment in them.

Étude du projet de loi 115, Loi modifiant la Loi sur les jours fériés dans le commerce de détail et la Loi sur les normes d'emploi en ce qui concerne l'ouverture des établissements de commerce de détail et l'emploi dans ces établissements.

The Chair: We are having hearings into Bill 115, the Retail Business Establishments Statute Law Amendment Act, and this morning our first witness is Ms Penny Dickenson.

Mr Mills: Before you get to the first witness, I would like to place a motion on the floor.

The Chair: My apologies, Ms Dickenson.

Mr Sorbara: Are you going to withdraw the bill?

Mr Mills: No. The motion concerns the order of speaking and the procedure for speaking. I think that yesterday we all experienced some degree of difficulty with follow-up questions. The questioning became disjointed, disorganized, and it did not really make much sense.

My motion this morning is that after the presentation by the presenters we have at any given time an amount of time left, and I am moving that this time be equally shared by all three parties, that this time be monitored and that the time allocated to each party will be used at one thrust. In other words, the official opposition talk, finish, and then we finish, because I find that it is very frustrating to try and get some intelligent rapport or dialogue going when I can only ask one question and logically I am expected to follow up and I cannot. So I would move that.

The Chair: I can certainly understand your viewpoint, Mr Mills. That is a change from what the subcommittee had originally suggested. I wish we had discussed that with the other folks before the proceedings this morning.

Mr Sorbara: That is a reasonable approach to it. I thought that was what we were going to do anyway, but if we put that in the form of a motion, all the better. Let's do that. If it is different from what the subcommittee decided, let's reject what the subcommittee decided and get on with it. I just would add, not to vary the motion—I think we are going to support the motion, Mr Chairman, if you want a recorded vote—to encourage flexibility on the matter.

For example, if Mr Mills is asking a series of questions and there is one little item that occurs to me or a colleague of mine or a member of the third party, the Chair would, with the indulgence of the person who is leading the question, allow that question to be asked. We are not here to go to war with the government or the governing party or the government members over the Sunday shopping bill. We think this bill is defective in a number of places and we hope to bring that out through the testimony, but I think we have a degree of co-operation here that can allow us to abide by the motion as presented by Mr Mills, and I think we should vote on that and then get to our witness.

The Chair: I do not think we need a vote if that is substantially the consensus. So that will be our procedure. Mr Carr, are you in agreement?

Mr Carr: Yes. I was just going to say, as Gordon said, that it was a little bit frustrating because you would look at the person and want a follow-up and you had to be quiet and let him go on and then wait for him to come around again. I have no problem.

Mr Sorbara: Mrs Haslam is going to announce that she is going to have to leave for a cabinet appointment.

Mrs Haslam: Mr Sorbara, I am so surprised that the Chairman lets you get away with this.

My comment was on this particular idea. I would like to know if we are going to say, "Well, there is a follow-up that is coming." The usual preamble is getting to be a little frustrating. If we are going to say, yes, that somebody else has one little point to ask, I would ask the Chair that he watch very carefully for the long preambles—

Mr Sorbara: You may be Solicitor General this afternoon.

Mrs Haslam: —and does he recognize people or not.

The Chair: Excuse me. I think we have achieved substantive agreement on that point.

PENNY DICKENSON

The Chair: Ms Dickenson, first off, my apologies that there was this delay at the outset of your time. You have approximately a quarter of an hour. Please use that time as you wish. As you have guessed, no doubt, from the discussion, the members of the committee are very eager to pose questions to you, to seek more information than is in your written or probably in your verbal submission, so whatever time you have, typically half of that time for questions would be appreciated.

Ms Dickenson: All right.

The Chair: Please go ahead when you are comfortable.

Ms Dickenson: I have a really loud voice, so if I start blowing your ears off, it is because I am not used to speaking into a microphone.

Mr Poirier: Go into politics.

Ms Dickenson: I do not know. We have company meetings like this.

I really appreciate the opportunity to address this committee. I am really intimidated. I have been in Toronto 21 years. I have never been to this building and it is absolutely beautiful so I am a little bit nervous. However, I have a very personal perspective to present to the committee plus I have a bit of a business perspective because of the business I tend to be in, so it kind of crosses over.

To keep things simple for the record, I will advise this committee that I am very much in favour of Sunday shopping in Ontario. From both a business and personal perspective, I would like to share with you my beliefs relative to Bill 115.

I am a strong believer in the freedom of choice in all venues of life. I am very frustrated by the legislation placed on our nation, which is seemingly in place to override our individual choices relative to our individual needs. If I want to shop on Sunday, that is my choice. It is not the government's choice. If the store owners feel there is opportunity for prosperity on Sunday and wish to open, that is their individual call. It is not mine. It is not the government's. If the store employee does not want to work on Sunday, that is his choice, not the management's, not mine, not the government's.

This really is about the freedom to choose, to live our lives seven days a week as we wish and as fully as we wish.

The government talks of establishing a common day. I say, what nonsense. I wrote to Peter North on this issue and was told about this common day, which totally confused me. The province is made up of diversified industries which operate seven days a week and ethnic groups that choose to worship on different days, which makes such a day, a common day, impossible.

So why are we bothering? Let us choose. What right does the government have, other than to encourage fair employment practices whereby counsel can be given to companies as to how employees can be given attractive incentives to work on a Sunday, as long as the choice remains with the employee?

I have not written this down, but I had a chance to talk to a gentleman who worked in one of the retail stores when we had Sunday shopping for a short period of time. The company had come up with a very creative package for this individual. He was free to work on Sundays. He liked to work on Sundays. The store was open from 12 till 5. Retailers generally have just Sunday off. If you are working in a retail store, that is all you get. You get one day. You do not get two-day weekends. What they had done with this gentleman is, if he worked from 12 noon till 5 o'clock, he was able to have two consecutive days off during the week that were agreed on between him and his manager, plus he was paid a whole day's wage. It was a hell of a deal and he was happy with it.

There are ways, if we all sit down and start talking to each other, that this can be worked out without the government's intervention.

Times have changed. We live in a province where living costs can only be met by two people working in a household. Women are no longer home and Saturday is just not

enough time any more. Sunday gives us breathing time. Saturday need not be so frenzied.

I am a single working girl. I travel in my job. I am very busy. I find that Saturdays are just crazy with my trying to pack everything into one day. I really want Sunday shopping as an option in my particular life. That is my very personal, emotional plea about Sunday shopping.

Moving on to the business part of my piece, for the past 17 years I have had the pleasure of promoting tourism to Canada. Primarily my job is to lure our American neighbours into our country, to enjoy our facilities, to take advantage of what we have to offer. Yes, there is a lot of press about what we have to offer being very expensive, but everything they offer in New York, Los Angeles and San Francisco is also expensive. There is still a tremendous opportunity here for Ontario as far as tourism is concerned, if they would just start marketing us on a more positive basis.

The tourists experience our wonderful resources and the country reaps the economic benefits of their spending. I think you would have to be pretty naïve to discount the revenue that tourism brings into the country. It is reported as the second largest industry in Ontario. We cannot stop the growth of tourism into this province.

Sunday shopping is an added incentive for US travelers to visit Ontario in the summer, and an absolute necessity for drawing visitors here in the colder months when things to do in urban centres are very limited. Yes, you can bring them for the theatres. They are coming in for the weekend package. They are coming in for Saturday night to see the Phantom of the Opera or whatever program happens to be here, and they wake up Sunday morning and, "Let's go home because there's nothing to do in Ontario."

Weekend-package business is a primary source of income for our hotels and resorts, and on Sundays our tourists find themselves with noses flat against store windows and doors shut up tight for the day. Families travel together. Families shop together. What can we offer our downtown visitors on Sundays?

The economic impact on our province, just by offering an additional day's shopping, is very significant. Hotels, restaurants and attractions all benefit, as does the province.

Ontario must take advantage of every opportunity to reap its share of these tourism dollars. Once a \$15.5 billion industry, tourism to Ontario is decreasing. Now is not the time to close the doors on our visitors. We must recognize and fulfil their needs, open up all our doors every day. Otherwise potential visitors will continue shutting their wallets and minds on travel to Ontario.

1000

In conclusion, rescinding the Sunday shopping privilege paralleled the Ayatollah Khomeini. I feel he moved his country back into the Dark Ages, and I feel that is exactly—somewhat, maybe I am exaggerating—what Sunday shopping, the rescinding of that law did. I almost drove off the road the day I heard the radio announcement that they took away something I really liked.

Again I was made to feel victimized and helpless by lessened legislated choices in and about how I live and enjoy my life, and that is why I am here today. I am

fighting back. I am mad as hell and I am not going to take it any more, and I am not going to take it quietly. I am going to continue the push to have Sunday shopping in Ontario.

Further procrastination and discussion on store openings on Sunday are paralysing us economically, and the found dollars being used on lawyers and in courtrooms debating this issue can surely be better spent. Why not spend those dollars promoting Ontario as the place to stop, shop and stay?

Sunday opening decisions should be left to the people. Unless our government has walked in our shoes, worked at our jobs and sat at our dinner tables, it cannot possibly make decisions on our behalf. I want to shop on Sundays. I want the government to allow me this privilege. I appeal to this government to stop wasting further dollars on this issue. It makes absolutely no economic sense. Ontario needs to move ahead. We need to march with a new drummer in step with today's times.

Mr Sorbara: I want to welcome you, Ms Dickenson, to Queen's Park and suggest to you that you should come to see us more often in this building.

You said you have spent a good deal of your life encouraging tourists to come to Ontario. If the only stores that are open on Sunday are stores that cater and are recognized as tourist establishments, people catering to tourists, would it be fair to say that, in your mind, those in the province who are more affluent would have an opportunity to shop as they wished on Sunday, and those who are less affluent among us would find severe restrictions on their ability to shop on Sunday?

Ms Dickenson: Shopping on Sunday for me is not a measure of being affluent or not affluent; it is a measure of convenience. That is a personal perspective.

Mr Sorbara: But if I am a tourist—

Ms Dickenson: Perhaps in a tourism situation. The affluence of the shopper is the affluence of the person's ability to travel to the destination. It is a further incentive. If they are coming here, they have the net disposable income to travel. They have some net disposable income to spend some sort of money on spending, maybe buying something in the stores, or what brings them into town to go to the restaurant that might be open because they are in the retail store. Affluence is definitely a factor when it comes to travel. There is no question there must be net disposable income. But from a personal sense, it is not that. It is a convenience issue for myself, being an Ontario resident.

Mr Sorbara: For about nine months the courts prohibited the provincial government from regulating in the area of Sunday shopping. The incumbent government had suggested that would bring about a substantial deterioration in family life in the province. During that period, did you notice the quality of family life in Ontario deteriorated a little bit, a lot, none at all, or do you have no opinion on that?

Ms Dickenson: Again I can only speak in the first person. It changed the quality of my life considerably. That is so subjective. It is exactly what my presentation is about. I cannot speak on behalf of the other families in Ontario. I noticed there was less traffic out on the streets

on Sunday. I have made comments about that. That would simply be a personal thing on my part, and I really cannot answer on behalf of all the other people out there.

Mr Sorbara: Do you think that if people shopped on Sunday, family life would deteriorate in the province?

Ms Dickenson: Oh, heaven's sakes, no. We have designated areas that are open because they have been designated as a tourist area, like the Unionville, and I guess Queen's Quay, and those particular shops are designated tourism areas. Again, that designation is subjective. If I think my store is a tourist store. I can designate it as such. Nobody should be able to do that unless he has worked with me for 365 days, I guess.

I go up a lot of times on a Sunday—because I have the freedom, I am more relaxed on Sunday to shop—to Unionville. I go down to Queen's Quay, and it is jammed with families, kids running around in strollers, people having a good time. Yes, if they have gone to church in the morning, they still have a lot of time to do what they want. I think things that are done together as a family are more important, as long as you are doing things together.

Then that gets watered down. What about the families whose husband or wife has to work Saturday and Sunday? Let's get real. This province is open seven days a week. Somebody drives the buses and the planes and everything. I travel on Sundays sometimes if I have sales meetings early on Monday morning. Somebody gets me there. Somebody in the hotel books me in. We have to grow in this province and recognize that this country does not just stop on Sunday.

We have to let people choose. On a number of issues, I am very much a freedom of choice person, and shopping is no different. I want the freedom to do what I want to do on Sunday. I am not saying we have to force people to work, because that is not what freedom of choice even means. Let us sit down and let us give employers and employees the chance to work together so that everybody wins. That is the way it has to be right now.

I am frustrated from a personal sense. From a business sense, I cannot help but think that this would help my business of bringing Americans into Canada to spend their money, if we could offer them Sunday shopping. We are losing out in so many areas.

Back to tourism again. It is decreasing and we have got to give them something extra to come for. It may not turn it around, but let's not put any more roadblocks in front of these people. Let's open it up. We have nothing to lose and we have a chance to gain. Why would we stop ourselves or close our minds to that opportunity? That is not the way business works. Business succeeds because they open up and go after new opportunities and new horizons. You cannot stay the same. If your profit runs on a loss like this, you cannot do that. It will eventually foul up. You cannot stay the same.

It is time Ontario moved ahead on this particular legislation. Obviously, I feel quite strongly about it.

Mr Mills: Do we have time for questions?

The Chair: No, we do not. We just used the time.

Ms Dickenson: Am I done?

Mr Mills: Mr Chairman, this is absolutely unthinkable if you say that we have no time left.

The Chair: I do not believe we do.

Mr Mills: What is the point of being here?

Ms Dickenson: I probably talked too long.

The Chair: Thank you very much, Ms Dickenson.

Ms Dickenson: Thank you everybody. Have a nice day.

Mr Fletcher: You did a marvellous job. Do not worry about it.

The Chair: We have a number of witnesses to follow. All in favour of a 10-minute recess? Opposed? Carried.

The committee recessed at 1008.

1019

PEOPLE FOR SUNDAY
ASSOCIATION OF CANADA

The Chair: We have a deputation from the People for Sunday Association of Canada. Is it Mr Kingdon? Despite the lateness, Mr Kingdon, you still have half an hour, give or take, and you can use the time however you wish, but typically there will be time allotted for the various caucuses. I would suggest that perhaps this time we could start with the Conservative caucus and rotate from there.

Mr Kingdon: My name is Les Kingdon. I represent the People for Sunday Association of Canada. The People for Sunday Association was formerly known as the Lord's Day Alliance and is in its 103rd year of seeking to preserve Sunday as a common pause day.

While the government is addressing this subject, nevertheless we are of the opinion that the proposed legislation does not address several important issues.

First, we would draw your attention to price clubs. There are a substantial number of these now operating and announcements have been made of expansion. These are retail outlets which operate under a membership theory and are very large outlets. We believe they should be included in the legislation to curtail their Sunday and holiday activities.

The legislation proposes allowing drugstores up to 7,500 square feet the right to operate on Sundays. It is a ridiculous situation to argue that drugstores require anything such as the square footage which is proposed. The legislation seeks to provide an opportunity to acquire health care needs. Certainly this can be accomplished in a much smaller store, and we would urge you to consider limiting drugstore size to 2,400 square feet. This is the footage similar to convenience stores and provides more than sufficient space for providing health care needs.

There are other areas which are not covered by the legislation, and we know from our experience that obtaining enforcement is virtually an impossibility.

One of the areas with which we are concerned is that of flea markets. There is no attempt to legislate their activities. There are many which operate seven days a week. There is a preponderance of outlets which operate on Saturday and Sunday. Our understanding of a flea market is one where inexpensive and/or secondhand items are sold. Many of these markets are supported by merchants who on Sunday simply move their stocks to a flea market, thus enabling

them to sell on a Sunday. One can purchase, apart from legitimate items, such articles as sporting goods, bedroom suites, organs, new wearing apparel and a host of things too numerous to define.

Another area which we feel the legislation should address is that of alternative Sunday entrances. How can a manufacturer condone that he is obeying the law when on Sundays he uses another entrance? Once you are inside the premises, it is exactly the same as is used on the other six days of the week.

In the past year we have had sales of fur coats and clothing being offered to the public on Sundays in locations such as hotels and on the grounds of the Canadian National Exhibition. In many cases, this is a sale of goods by out-of-town wholesalers who defeat the legislation with this practice.

The legislation places upon the municipality the responsibility of ensuring that an exemption is warranted and guidelines have been provided. The unfortunate part of this situation is that once a municipality grants an exemption there is no recourse other than an individual or organization to take the case to court for a decision. Under the present arrangements we can assure you that many exemptions should be challenged, but where will the funds come from for these challenges? We would suggest to you that municipalities are not infallible and that there should be a provision for a provincial board to examine and give or withhold the right to the exemption. I recognize this is a difficult area, but I would suggest to you that a provincial board of some description, other than the Ontario Municipal Board, would be the place for this to take place.

We do not believe the proposed legislation in any way can be deemed to be what the public is seeking. Many of the suggestions which we are making have been made on many occasions at meetings with various ministers.

Whatever your decision may be, we would draw your attention to the enforcement of the act. For many years we have run into situations where a police department may not agree with the legislation and therefore simply states that manpower is unavailable for enforcement. We cannot accept this argument for, as an example, police forces are always available to enforce the law against the Magdars of the province. It is essential that the Solicitor General instruct the police authorities that he demands they enforce this important legislation.

To enact the legislation in its present form will invite controversy, and we will have a similar situation that will become so intolerable that the government will be forced into introducing new and more meaningful legislation.

Mr Carr: First, thank you very much for your presentation. When your association originally started was the reason for having Sunday off based on religious reasons?

Mr Kingdon: Originally it was started by the Presbyterian Church in Ottawa and was recognized as a religious organization. Over the years that has changed to the point where we recognize the human values that are involved, and today we are interested in human values as well as the religious aspects.

Mr Carr: So one of the reasons for having Sunday off is because of the Bible taking the seventh day off and so on.

Mr Kingdon: Originally, but not today.

Mr Carr: One of the things many people see happening is that there will be a snowball effect with the tourism exemptions being so broad that municipalities will start to allow certain areas to be open—for example, Windsor will allow the entire town to be open—and the neighbouring municipalities and suddenly it will all open. Is that your perception of what will happen? How do you see that unfolding if the legislation stays the way it is now?

Mr Kingdon: I think the case of Windsor is an outrageous exception of the law. The law requires that there be historical or architectural references, and there is nothing in Windsor that would enable you to open the entire city for it. If this is allowed to stand as a tourist exemption, then it is going to spread all over the country. We had the same thing existing in the Sault, and in other centres around the province there has been a move towards this.

Mr Carr: If the legislation stays the same, you foresee, based on your best judgement, that there will be wide-open Sunday shopping in most areas.

Mr Kingdon: There is an alternative to this. They can be challenged. That is the point I made earlier, that the challenge must be made by an individual. We challenged the first bylaw that was passed and spent \$30,000, only to lose the case. If you get the situation developing over the province of cities opening up, then there are going to be challenges, but I question who is going to have the money to follow up on these challenges. We can do a certain amount, but we certainly could not think of taking on entire municipalities all over the country.

Mr Carr: One of the other things that many people fear will happen is that there will be some municipalities open and some that are not, and that is going to be very confusing for people. How would you see that, in light of your presentation? Obviously you would not be pleased with a situation like that.

Mr Kingdon: The domino effect is going to take place, there is no question about that. It is the old story that I have something you do not, and you want what I have. You are going to have municipalities side by side. In some perhaps there will be strong convictions, but in most cases I think they will bow to the political pressure and give in and have open Sundays.

1030

Mr Carr: I know. One last question. You touched on the resources of the police department and I was thinking of a place like Toronto, where we have double the murder rate in one year and violent crimes are up something like 30%. What the police are saying is, "We're having a tough time catching the sexual assaults, the break-ins." I went out with the people in 31 Division and on a Saturday night they were about 41 calls behind, so if you call at 1 in the morning you probably will not get somebody to arrive until 7 o'clock, even if you say, "There's somebody breaking into my apartment now." How can you justify to the public, with these violent crimes going on, saying that we are now

going to have police going up and down Spadina checking to see who is or is not open? With our limited resources, what would you say to the public on that?

Mr Kingdon: I agree with your comments completely that crime must be sorted out in the order of importance. I would certainly not argue for police charging somebody for being open on a Sunday as opposed to a murder or a break-in or anything of that nature.

Let me give you an example, which is perhaps the best thing. There is a drugstore in the west end of Toronto. This was when the drugstores were not included at the 7,500-square-foot level. I noticed that parked beside the drugstore was a police cruiser. I went up to the officer and asked him if he had checked the drugstore for being in violation of the Retail Business Holidays Act. He said, "No, I'm doing some work here on some exams I've got coming up." That is an example, and I grant you it is an exception. Nevertheless, there are police officers available in most cases on a Sunday.

Mr Villeneuve: Just a short question: You touched on flea markets. I gather you would close those down completely on Sunday.

Mr Kingdon: By no means. We have no objection to flea markets if they stay to the one day a week and if the goods being sold are inexpensive or secondhand goods. But flea markets today, as you know, are simply a matter of merchants finding another way of selling on Sundays.

Mr Mills: Before we get into questioning by our members, I would like to ask, Mr Chair, that we call forward Mr David Spring, legal adviser to the Solicitor General, to clarify a point that Mr Kingdon made about price clubs. I think it is important for all committee members to have that clarified at this point. Mr Spring, I understand the ministry has or is in the process of taking steps to clarify the so-called price clubs. I wonder if you could tell the members of the committee exactly what is contemplated.

Mr Spring: Certainly. My name is David Spring. I am director of legal services for the Ministry of the Solicitor General.

Price clubs as we understand them operate on the basis that memberships are sold. The argument is thereby made that you are not a member of the public; you are a special person, if you will. You are removed from the guise of being a member of the public and are thereby entitled to shop in a store, in this price club, on Sunday. It is the view of the Ministry of the Attorney General, of which I am a part, that this is simply a retail sale in another guise, a retail sale being a sale to the ultimate consumer or the end user and that a member of the public who purchases a membership entitling him or her to shop on that day is none the less a member of the public.

The proscriptions in the Retail Business Holidays Act simply say that a retailer cannot sell or offer for sale any goods or services therein by retail or admit members of the public thereto. It is our view that in fact those persons who are being admitted to price clubs on Sunday where goods or services are sold or offered for sale which do not fit the prescribed inventories are in fact members of the public and that the price club premises in fact constitute retail

business establishments in so far as goods or services are sold therein by retail. I repeat that retail is a sale to the end user or to the ultimate consumer.

It is our view therefore that price clubs are caught by the legislation. We have in fact advised a number of police forces to this effect. Given the more widespread concern about the issue that has been evinced here before the committee and in other areas, I think the ministry could very well consider, in concert with the Ministry of the Attorney General, issuing some form of generic advice to police forces across the province advising them of our view. If we should be proved wrong through prosecutions, then we would look at it again, but our opinion is fairly firm that price clubs are in fact caught by the legislation.

The Chair: With your indulgence, Mr Mills, I believe Mr Sorbara has a question of Mr Spring on this point.

Mr Sorbara: Thank you, Mr Chairman. I am glad you allowed that because this is a new and unexpected line of testimony. I would like to ask the witness precisely what studies the ministry has done to come to this conclusion. The reason I ask that is I have done some investigations myself into the operation of the price club. While it certainly is the case that some of the so-called members of the price club are members of the so-called general public who are looking to buy in large volume to get the lowest possible price, generally because they are large families who cannot afford more expensive items—again, these are the poor in our society—a good number of the customers of the price club, from my investigations, are operators of small convenience stores and operators of, say, small nursing homes who buy ketchup in big jars, a big case of toilet paper, big cases of paper towels and all sorts of things. They are small business operators themselves. In fact, I would suggest to you that if you went to a price club on Sunday and you saw the thousands and thousands of people who go there and you did a survey, a good number of those customers would be people who are operating small businesses.

The reason I ask you what studies you have done is that if the Ministry of the Solicitor General is proposing to do court battle with the price club phenomenon, I suggest to you that you are on your way once again to the Supreme Court of Canada to define a terribly narrow point of law which is going to close off yet again an avenue for people, including very small businesses, getting the economic opportunity they need to get, and I would strongly advise against it.

Mr Spring: In fact, we are aware there are different varieties of clientele in these price clubs. Some have wholesalers' certificates. I would suggest that a number of those types of clients you have mentioned, even though they are small businesses, still qualify as members of the public in so far as sales to them constitute retail sales.

Mr Sorbara: Nothing prohibits a wholesaler from delivering to, say, a small convenience store on a Sunday. The difference here is that those small convenience stores are saving the cost of delivery by going out and purchasing themselves and generally at a lower price.

I have done investigations that establish that no one is allowed into the price club on Sunday without a membership

card, establishing that they qualify and are excepted from the general public.

Mr Spring: I would just elaborate briefly on the point that there are a number of varieties of clientele. Some of them are undoubtedly, shall I say, members of the public who engage in buying by retail, and to that extent price clubs fall within the ambit of the legislation. Some of their operations probably do not fall within the ambit of this legislation.

Mr Sorbara: I guess what I am saying to you is that if in this environment—

The Chair: Could we leave that at this point, Mr Sorbara?

Mr Mills: Some of my caucus members would like to speak.

1040

Mrs Haslam: I had a question in a couple of areas. On page 3 of your presentation you said, "We would suggest to you that municipalities are not infallible and that there should be provision for a provincial board to examine and give or withhold the right of the exemption."

Should the tourism criteria be adhered to by municipalities and they decide to have a particular area open or they decide conversely to turn down a particular store or a particular area, it is your contention that an appeal process be put in place, and if so you are suggesting it go to the provincial rather than the municipal level.

Mr Kingdon: The municipalities are left in the position of being the final voice in this matter, and they can either pass a bylaw or not. Either way, there can be an objection to it, and the only procedure open to any individual is through the courts. It would be my suggestion that it would be a much more feasible way to have them apply to some sort of appeal board; not necessarily the Ontario Municipal Board, but a board set up specifically to handle challenges under the Retail Business Holidays Act.

Mrs Haslam: Okay. That was one of the options I was interested in. The other question I had was that I did not know if you were aware that over 60% of drugstores are over 2,400 square feet. I have many small communities; I have a village of 1,200 in my riding. So if we bring down that square footage, we are looking at closing 60% of the drugstores in communities, and I would be left with a community without a drugstore. I just wondered if you were aware of that and why you wanted it brought down.

Mr Kingdon: There is no question that it is an evolutionary process that has taken place over the years where the common pharmacy a few years ago was around 2,400 square feet. Then it went to 5,000 square feet and then in the last legislation to 7,500 square feet. To sell drugs or to fill prescriptions there is no need for that amount of space. So what have they done? They have added grocery items. There is a store, as a matter of fact, that even goes so far as to have a freezer department in it. I ask you, is this what the government is looking for in a drugstore? Or are they looking for—

Mrs Haslam: But I asked you, can I have a community without a drugstore if we bring that—

Mr Kingdon: The drugstore, in my opinion, if it is a drugstore, is to fill pharmaceutical and health needs, and 2,400 square feet should be sufficient for that. It is unfortunate, if there are 60% as you say—and I am not going to quarrel with your figures—that are over 2,400 square feet, but in my opinion they should not be allowed to open.

Mrs Haslam: That was what I wanted to know. Thank you.

Mr Fletcher: Thank you for appearing today and taking an interest in this piece of legislation. One thing you did mention was law enforcement. I know that the member opposite, Mr Carr, also mentioned it. When we talk about law enforcement it always seems that we focus on Toronto as being the centre of the province, when it is not. In fact, if you come to my community, Guelph, and you see a police officer walking the streets or on his or her beat, they will investigate. This law is not made specifically for Toronto. I know you know that. I know you are cognizant of that fact, but it just gets to me when I hear members of the opposition and also some other people talking about Toronto as being the barometer. I do not know what law enforcement agencies are like in Toronto, but I do know that in other parts of the province they will investigate, and I know you did not mean to just pinpoint Toronto as being the centre.

On another point, getting back to the drugstores, if we have so many drugstores that are within the limit, are you suggesting something like roping off areas, which did not work that well in the past?

Interjection: How do you do it?

Mr Fletcher: Yes, how do you cut them down to 2,400?

Mr Kingdon: The roping off situation was used by many stores a few years ago, and the government in its wisdom decided that this was not a suitable way to handle things. We had a complaint recently from a store which has been roping off for many years and still is. The police have told them this was acceptable. We drew the attention of the police to the section of the act that prohibits roping off.

I do not think that roping off is the answer because if you have seen roping off as it has been done, you know you line up a few Coke crates along the front and you can go around them or over them or whatever you want and get what you want and make a purchase.

Getting back to your question of enforcement, let me use a couple of examples, one being a police force which examined a store, and I called them the day following and asked them what they had found out. I was presented with an advertisement showing that these people had a bylaw granting them the right to stay open. What had been presented to the police was actually a copy of the advertisement calling for a public meeting. The police accepted it as being evidence that they were qualified by bylaw. This is the sort of thing that concerns me, that the police are not knowledgeable and, second, that they do not enforce where there are violations.

Mr Fletcher: Is that province-wide or is that just in the city of Toronto?

Mr Kingdon: I think it is province-wide, yes.

Mr Fletcher: As I said, I know that in my community people were charged and the police were doing their job. But let me get back to the square footage. As far as the square footage is concerned, there are buildings already built for drugstores. We cannot expect drugstores to go out and rebuild smaller stores. I agree the roping off does not work. Do you have a suggestion? That is what I was asking, do you have any ideas of how you would like to see it handled. If so, maybe we can implement them.

Mr Kingdon: The Pay Less Drug Emporium in Brampton made a presentation to the region of Peel council where they had prepared some sort of device. I have not seen it, so I am not thoroughly familiar with it, but it was some method of closing off the store completely. I presume it was something like a folding curtain that could be put in place and close off a part of the store. Something of that nature is going beyond roping off and gives a permanency to it that roping off does not give. I think that would be a way in which they might be able to confine the 2,400 square feet.

The Chair: You only have a couple of minutes, Mr Sorbara.

Mr Sorbara: I take it you find the government's proposed bill better than no legislation at all regulating Sunday shopping?

Mr Kingdon: A qualified yes.

Mr Sorbara: But you would like to see them do a number of things, including deal with price clubs and flea markets. We have been talking about drugstores, and that is where I would like to concentrate. If the government really wanted a common pause day, would it not be just as simple to say a drugstore of any size can remain open except that they can just sell prescription drugs? Is that not the purpose for allowing the drugstore exemption?

Mr Kingdon: I think it is, but I think it is impractical to think that you can open a drugstore and have an area available to the public where they can walk around and pick up whatever they want, whether it be outside the prescription or health needs or not.

Mr Sorbara: But one could say, "We're available to fill emergency drug prescriptions." That is the only basis for the drugstore exemption, is it not? All the other stuff that Shoppers Drug Mart sells on Sunday, including hair dryers, chocolate bars, Christmas cards and birthday cards, all that stuff really does not come within a necessary exemption, does it?

Mr Kingdon: Can I ask you the question, do you think a drugstore would be willing to accept regulation of that type?

Mr Sorbara: No, I do not. On the other hand, I asked you do you think it is fair to tell a drugstore that is 8,000 square feet that it is not allowed to stay open and yet its competitor which is some 501 square feet smaller can stay open? Would you consider that fair?

Mr Kingdon: I think the argument is a false one, that drugstores have brought this on themselves.

Mr Sorbara: Is it not true that the drugstores simply want to stay open not so much to sell drugs but to capture some of the Sunday market?

Mr Kingdon: That is right.

1050

Mr Sorbara: Do you disagree with the existence of a Sunday market?

Mr Kingdon: It depends on, I suppose, what your opinion is. As far as we are concerned, Sunday should be a day of rest, and a day of rest means that everything should be closed down except those stores which are essential.

Mr Sorbara: Sports facilities?

Mr Kingdon: No, I think this is a part of recreation and should be accepted.

The Chair: Thank you, Mr Kingdon, for your very informative presentation.

Mr Kingdon: Thank you.

DYLEX LTD

The Chair: We now have from Dylex, Sharad Mistry and Carol Cox. I apologize for our tardiness, Mr Mistry and Ms Cox, but I am sure you have also seen how the proceedings go. You may spend whatever amount of time you wish of the half hour for your presentation and then there will be questions, starting with the official opposition.

Ms Cox: Terrific. Thank you very much. What Sharad and I are going to do, if you would not mind, is that we will both give our presentations and then open up for questions to both of us.

My name is Carol Cox and I am vice-president of human resources for Dylex Ltd. Dylex, as many of you may know, has close to 1,600 stores throughout Canada and North America, employing 21,000 people in both retailing and manufacturing.

Among our divisions are Bi-Way, Suzy Shier, Thriftys, Big Steel, Tip Top Tailors and Fairweather. For the record, we support Sunday shopping.

The mission of the human resources function at Dylex is to attract, retain and grow effective employees. In this regard, retailing is unique by offering a variety of opportunities and work schedules, which include full-time, part-time, flex-time, evenings and weekends. We attract people of all ages, especially those entering the workforce for the very first time.

Retailing serves, really, as an incubator for those just getting started, sometimes without prior experience or developed skills, and frequently with only limited education. Many a future entrepreneur has started a successful career which began as a part-time employee in a retail store.

We offer employment throughout the province, indeed throughout the country, from small rural towns to major metropolitan centres and shopping malls. In effect, we reach out to the grass-roots levels of communities to attract employees and customers alike.

It is important to remember when debating the very critical issues in question which are often raised about Sunday shopping, for example, the desire of people to shop on Sunday and the willingness of retail employees to

work on Sunday, that these questions are not limited to theoretical answers. Dylex has long and extensive experience right here in Canada in those provinces which resolved these matters long ago. Further, the experience in virtually all of North America also tells us, without doubt, it works and it works well.

In Vancouver, for example, people are not forced to work on Sunday, any more than they are asked to work on Saturday or Tuesday or any evening. It is an established matter of free choice for employees to choose among the wide variety of schedules that we offer. As a matter of record, it is not a problem for us to find employees to work on Sunday. Many times people are more than willing to volunteer to work. Again, I want to refer to our knowledge and experience gained as a national company and years of experience with Sunday openings in other progressive provinces of Canada.

In Ontario, when Sunday shopping first became permissible last year, a number of our employees working in various stores requested a Sunday schedule because another day of the week, perhaps a Tuesday or a Wednesday or even a Thursday, was better suited to a day off for them for their personal and family needs. It is evident that in a diverse society, growing more diverse every day, there is no one single day of the week that everyone favours to have off. In fact, we detect no consensus whatsoever among our employees to favour a particular day off, including Sunday.

It is of interest that a number of college and university students applied for Sunday work in the brief days when stores were legally open in Ontario. The Sunday schedule was ideal for young people trying to balance the demands of getting an education with the need to earn money through selected part-time employment, employment which helped to pay for their education. That convenient avenue of opportunity of course is now denied to Ontario students.

Employees in virtually every other field of endeavour have the freedom of choice, as responsible adults, to work or not to work on Sundays, as their jobs and personal plans permit. Manufacturing plants, to be productive and healthy, provide employment on Sunday. People are able to work on Sunday in the hospitality industry, the mining industry, transportation, health care and communications. The list is as endless as the geographic locations where no 19th-century restrictions exist. As workers, as family members, as consumers, the citizens of Ontario are entitled to choose for themselves whether they want to work on Sunday or not, and our employees have that choice and have always had that choice and have the same selection of options available to them as the vast majority of other Canadians.

Dylex favours Sunday shopping. We also believe very strongly in the fair treatment of workers. That is very much a priority for us. We support the proposed amendments to the Employment Standards Act which are allowing workers to refuse work on Sundays or holidays. We also support guaranteeing 36 continuous hours of rest time in any seven-day work period. We also support strengthening the role of the employment standards officers in dealing with employee grievances.

Mr Mistry: My name is Sharad Mistry. I am vice-president of financial services for Dylex. Carol talked

about some of the human resource issues regarding Sunday shopping and Dylex. I would like to give you just some brief background on the financial side of Dylex.

Dylex has 799 locations throughout the province and that represents 55% of the Canadian locations. It is fair to say that Dylex operates in virtually every mall in Ontario. Our sales in 1990 totalled approximately \$800 million in Ontario alone. We are a major employer, employing something like 18,000 people across Canada and approximately 10,000 in Ontario. In 1990, \$37 million was expended by Dylex and approximately 70% was in Ontario.

How does Sunday shopping affect Dylex? Sunday shopping is not a new issue in Ontario. It has been around for some time. However, there are three factors which have now come on the scene which have really made the retailers' section of the market difficult.

Introduction of the GST: The manufacturers sales tax did not apply to the clothing industry. Therefore, we had a full 7% increase in our products. We have estimated that we have lost something like \$47 million in sales in Ontario just attributable to the GST.

Cross-border shopping: This is becoming a very hot topic now. We have estimated that we have lost something like \$110 million, based on something like \$2 billion that goes across to the United States. We have estimated something like \$110 million in sales.

Increased US competition in Ontario: The Gap and Price Club are American-based, very well financed, having the strength of the US market coming into Canada.

1100

How will Bill 115 affect Dylex?

Potential job losses: While the government has a duty to protect workers, it has also an obligation to promote economic growth and remove barriers that prevent people who want to work from doing so. This is particularly true in the post-free-trade era and it has become more evident during the recession. The passage of Bill 115 will weaken our ability to preserve our market share and return to a profitable position, which will affect the employment levels.

Decreasing competitiveness: Bill 115 worsens our ability to respond to challenges posed by the introduction of the GST, the aggressive marketing practices of the US retailers in Canada and the increasing levels of cross-border shopping. Just as an example, I would like to read a letter that Carol received from a subsidiary of K Mart corporation from Buffalo called Pace Membership Warehouse. Pace Membership wrote to Carol.

"I am writing to you in response to an overwhelming influx of your employees at our warehouse in recent months. I would like to have the opportunity to discuss the select employee group program with you. I will be calling you soon to discuss the details further."

This is a US-based warehouse membership club which is asking a retailer to send its employees over there to shop.

Ms Cox: On Sunday.

Mr Mistry: It is very aggressive. It is on Sunday.

Mr Sorbara: You don't have to send them; they're going.

Ms Cox: It's frightening.

Mr Mistry: Planned capital investments in this province have decreased, primarily as a result of the recession. But if Bill 115 goes through, getting financing to expand our operation in Canada is going to be more difficult. If we are not profitable, the banks are going to be finding it difficult to lend us money on that basis, and in the fashion trade we are constantly looking at our stores and renovating our stores to keep up with the trend that the consumer wants. It is an expensive proposition and it makes it a little bit more difficult.

Our major concerns: Carol already went through all the information on Dylex's position as far as the employees are concerned. Just to summarize, we had no difficulty in getting employees to work on Sundays. A lot of our employees are students, and working on Sundays means they can devote more time to studies during the week. It does not disrupt their week's schedule.

Fairness and consistency: Again, other sectors of the economy—manufacturing, hospitality and mining—are permitted to open on Sunday. For us to remain competitive, I think we should have the same opportunity. Another example is that Drug World, which is one of our subsidiaries, is appreciably the same as Shoppers Drug Mart, and yet we have difficulty in getting that to open on Sunday.

The future of Canadian retailing: If Ontario is to preserve a Canadian-owned and a distinctively Canadian retail sector, the government must enable Dylex and others to respond to the challenges posed by the large American-backed chains. We would like to feel that the provincial government is with us and not against us in this effort.

Mr Sorbara: I have a question or two, for Ms Cox first. As I understood your testimony, you said you were supportive of the provisions in Bill 115 dealing with worker protection.

Ms Cox: That is correct.

Mr Sorbara: I am surprised actually that a director of human resources would say that. I do not want to try to convince you to change your mind. I have a special interest in this: I was the author of the predecessor. How many people work in a typical Dylex store on a Sunday, or any other day? How many employees?

Ms Cox: We have a variety of sizes—10 people. We have a Thriftys store that might have one or two.

Mr Sorbara: Let's take a store that has 10 employees regularly, including Sunday, and the store, under whatever law, is allowed to stay open on Sunday. If on Friday at 11 o'clock those 10 employees phoned you and advised that they were not coming in on Sunday, what would your response be?

Ms Cox: I guess I, as the store manager, would be alone in the department. I would call my district manager in and I would call some other store managers to see if they could give me some help.

Mr Sorbara: And if they could not?

Ms Cox: If they could not, I would open up the store by myself.

Mr Sorbara: With one person. Would you take any retaliatory action or would you discipline those employees

or would you feel that you should have a right to discipline them?

Ms Cox: Sure I do.

Mr Sorbara: Are you aware that under Bill 115 you would be prohibited from taking any action whatever, even a reprimand?

Ms Cox: What we read in the bill that goes with the extended powers was nothing like that. If employees actually call up with no reason—

Mr Sorbara: If you read the bill, the bill provides that the employee has an absolute right to refuse so long as notice in excess of 48 hours is given to the employer—I say Friday at 11 because I am assuming the store opens at noon on Sunday—and that any attempt to coerce or reprimand or to discuss the refusal would be a violation of the laws of the province of Ontario. Are you aware of that?

Ms Cox: No, I am not. That is not how the research that has been given to us on the act—also, we do our schedules a month in advance and people agree to the schedules in advance.

Mr Sorbara: Notwithstanding the agreement to work on Sunday, the employee is given an absolute right to refuse, subject to the 48-hour requirement. That is two days' notice.

Ms Cox: Whether it is a Monday or a Tuesday also? Just a Sunday?

Mr Sorbara: Only on Sunday. An employee has an absolute right to refuse to work on Sunday. As a human resources officer, do you think that is the basis for sound human resources management in an organization like Dylex?

Ms Cox: If you have schedules people are hired on—they agree they are more than willing; they want Sunday work—and then they turn around and say, "I refuse, and you have to give me a different schedule," then we have to make some serious decisions about whether we can afford to carry them on the payroll and have them in that, if we do not have enough time. We will have to hire people who are willing to work on Sunday.

Mr Sorbara: Except that the people you hire to work on Sunday continue to have an absolute right to advise you 48 hours before the shift starts that they are refusing to work, and the bill prohibits you from taking any action whatsoever in response to that.

Ms Cox: In other words, you are saying that if somebody is hired for Sunday work—let's say their schedule is Thursday, Saturday, Sunday—he can state on Thursday that he is going to refuse to come in on Sunday forevermore and there is nothing I can do about it?

Mr Sorbara: That is right.

Ms Cox: There is no way I can support something like that, but that is not how I read the—

Mr Sorbara: That is what the bill provides. The current act, the act in force right now, would not allow them if they were hired to work on Sunday to then refuse, as the assignment would be deemed to be reasonable because they agreed to work on Sunday and that is what they were hired for. But the proposed act gives an absolute right for

the employee to refuse to work on Sunday, notwithstanding that the employee was hired to work on Sunday.

Ms Cox: Would we not have cause to say the employee was misrepresenting himself and came to us under false pretences?

Mr Sorbara: Not under the bill as it stands. I have no other questions.

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Mr Carr: First, I want to thank you for making the presentation. It is very helpful.

As I understand it, you have about 10 people in each store who would be working on any given Sunday, and all 800 would be open on a Sunday, so we are looking at approximately 8,000 people who, if stores do not open, will not be able to earn an income on a Sunday. How many of those people will lose their job completely? I assume you would not be able to earn money on Sunday, but you would still keep them from Saturday. With the numbers being what they are, you now would not need those 8,000. I will ask you, Mr Mistry, with the financial background, how many people do you see losing their jobs if in fact you have to stay closed right across the province on Sunday?

Mr Mistry: First, you have to understand that a lot of the employees we have who work Sundays are part-time employees and they either work in the evenings or they could work on the weekends. The schedule for store operations, as Carol mentioned, would be done in advance to see what our needs are, and with the current recession it is difficult to isolate exactly how many of the job losses we have had or where we have not taken on people relate to Sunday as opposed to the current recession we are experiencing.

Also, the part-time employees go through their cycles; if somebody leaves, we will just not hire someone else to take his place.

Mr Carr: But it would be safe to say that 8,000 people will not be able to earn income just in your stores alone if stores are not allowed—

Mr Mistry: If we were allowed to open on Sundays, I would say that 8,000 people have the potential to earn an income.

Ms Cox: What is happening in Ontario to retail in general and Dylex in particular is that we are having a tremendous struggle. The recession has gone on much longer than when we thought we would start coming out of it. We have continued to have devastating returns. I have humungous competition from the States. Pace was just one example. If you travel along the QEW on a Sunday, the lines going into Buffalo are horrific. We are hit with the GST, which has been a real problem for us. We are hit with the lack of our prices being as competitive as in the States.

We have put in salary freezes across the entire country with all our Dylex employees, and we are doing everything we can to hold on to jobs and not to lay off people. We are taking a very hard look at our expenses. We have been cutting down on store hours in the malls. In addition, we have been working with the developers in the malls. We have been working on trying to get some help on rent and

rent subsidy and things like that—everything we possibly can do to stay in business.

Dylex has 10% of the Canadian market in retailing, and if we cannot make it, it really bodes very badly for what the future of this province, this country, is going to be. What we are asking you to do is to take a look very seriously at this Sunday shopping issue and stop holding us back from being competitive in the 1990s.

Mr Carr: What you are saying is that the problems are different hurdles. There is one here, and then you go on to the next one, and cumulatively you are unable to compete. What you are saying is, "Please don't put up another hurdle."

Ms Cox: Exactly.

Mr Carr: One of the chaps at Hudson Bay Co yesterday gave some definite figures on how much it will lose if Sunday shopping is not allowed. Have you, Mr Mistry, as a financial person, been able to piece together what the losses will be for your company if all of the 800 stores have to remain closed on Sunday?

Mr Mistry: No, I do not have those numbers.

Mr Carr: It is just too difficult to be able to piece together with all the factors, I guess.

Mr Mistry: We tried to do some comparison with what happened over the period that Sunday shopping was open, but with the current recession it is difficult to isolate the numbers for that.

Mr Carr: You cannot take your figures from Quebec and say they are down 10%, too. You cannot say to this committee, "If we don't open on Sunday, it's going to cost Dylex X amount of money." That is just too difficult to do, is it?

Mr Mistry: It is too difficult at this point.

Mr Carr: But you are saying your best guesstimate is that it is going to hurt. The figures are already in the red, the \$3.2 million and the \$16 million and so on, all the figures. There probably will be more losses as a result.

Mr Mistry: Are you saying there will be losses just due to Sunday shopping? It is one of the factors that will come into play.

Mr Carr: If stores remain closed Sunday, do you see it hurting your bottom line?

Mr Mistry: It will hurt our bottom line.

Mr Carr: You just do not know by how much?

Mr Mistry: I cannot even estimate.

Mr Carr: I have one final question, as it relates to the protection of the workers. When this legislation was brought in, the Solicitor General said the big reason was to protect the workers from having to work on Sunday if they chose not to. As one of the largest employers, what you have been able to see is that the number of people who are saying, "I don't want to work and I'm being forced to"—in your case, there is not anybody in that situation, being forced to work on Sunday. I think you said you would even like to see strengthened the penalties for any company that does say, "You will work, otherwise you'll get fired."

One of the concerns has been how to enforce that. Do you have any suggestions to this committee about how to

enforce that? I sense from your presentation that you are good corporate citizens and that you do not want to force anybody. I think one of the persons at the press conference said that if you force somebody to work on Sunday and a customer comes in and sees him with a long face because he does not want to be there, you are not going to get that customer back. What about some other companies that might not be as good with their employees in good employee relations? How do you see us helping to protect those workers that might be forced by an employer?

The Chair: If you could answer briefly, Mr Mistry.

Ms Cox: Maybe I should. First, we would be happy to hire those people from the other companies. I think the normal process of going through the Human Rights Commission or employee standards group ought to be sufficient, where employees know they can openly complain and get something done about it. Government has set up the processes to do that without anything additional needing to be done. I think the employees are pretty well educated. Certainly in our experience people are very well educated and they know due right of process.

Mr Fletcher: Thank you for your presentation. I am pleased to see you do support the employment standards regulation no matter in how convoluted a way Mr Sorbara tried to explain it. As far as the legislation is concerned, if a person does refuse to work on Sundays and you do discipline him, he has the option of going to the employment standards officer. It does not mean you cannot discipline, it just means they do have that option.

Mr Sorbara: On a point of order, Mr Chairman.

The Chair: Mr Sorbara, please. We are not—

Mr Fletcher: There is a grievance procedure and that is for all retail workers, so you probably understood that a lot better before.

When you talk about job creation, let me just read to you something from Loblaw's Supermarkets when it did a presentation to this committee on Bill 113. These are not my words; these are from Loblaw's.

"The proponents of Sunday openings expound at great length hypothetical forecasts for increased sales, tourist dollars and job creation. Our experience with extended hours and opening additional evenings has proven that jobs are not created as a result, and we can categorically state that we do not anticipate any additional staff requirements in the event of Sunday openings. Rather, work schedules will simply be adjusted for existing employees to compensate for the extra day."

I think you were saying something like that, that it is not going to create a lot of jobs. What it will do is prevent people from working Sundays. Your work schedules will change so that people will not have to work Sundays. If there are Sunday openings you will change your work periods to allow for that extra shift and perhaps hire some additional staff but not a great number of additional staff. Is that right?

Mr Mistry: Well, if we have this—

Mr Fletcher: I heard your answer to Mr Carr. I know what you said.

Interjection: Let him answer.

Mr Fletcher: I did not ask a question.

Interjection: If you are just going to give speeches, you can do that in the house.

Mr Mistry: I was just going to say that if we have this 36-hour rest period, our work schedule may not allow us to work with the people there already; we may need to hire additional people. The probability of a student wanting to work on a Sunday is probably a lot higher than one of our full-time staff who has a family and does not want to work on a Sunday.

Mr Fletcher: This could be a part-time student already working who may want to work on a Sunday.

Mr Mistry: It could be a part-time student working, but if they have the opportunity to work on a Sunday and leave their week clear for their studies, it is an option they can have.

Mr Fletcher: Let me give you one more piece of information given to us yesterday by the Canadian Shoe Retailers Association. From western Canada, Sunday shopping, they reported that only between 15% and 20% of their sales occur on Sunday, and that sales on Monday and Tuesday are virtually non-existent. That is with the experience in western Canada, where they have had Sunday shopping for 10 years or so.

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Mr Mistry: Okay, yes, but now you have Buffalo 90 minutes down the road—

Mr Fletcher: We have always had Buffalo.

Mr Mistry: —on a Sunday. You are giving people an option on a Sunday to go down to Buffalo to shop. If they are going to spend their dollars, if they had the opportunity to spend in Ontario, why not?

Mr Fletcher: As far as the cross-border towns are concerned, let's look at British Columbia. They had wide-open shopping, and trans-border shopping increased in British Columbia with wide-open Sunday shopping. It is not so much the fact of when you can shop, it is the cost. You have already addressed that; I know you did. Thank you, I do not have any more questions.

Mr Mills: I will be brief. There are other members of my caucus here who want to talk.

I must say that when this Sunday shopping business came up, I took it upon myself to go into the malls in my riding where your stores are in fact situated and I asked the people in there pointedly, "Do you want to work?" "No, I don't want to work. I want to shop but I don't want to work."

There are a lot of people who cherish Sunday or a common pause day as a family day, and that is a very real thing in the province of Ontario.

I know your companies represent 55% in malls. If you were to open on Sunday in that mall, do you not sense some sort of pressure on the other stores in that mall to open and the other workers there who really do not want to work? I know that in most of your stores, Bi-Ways in particular, it just seems to be all students, but the other stores have mature people working. But the pressure on that mall would be such that those people would lose their

family day together. Do you have any thoughts on that effect, what it would do?

Ms Cox: It is hard to comment on what other companies are doing. There is no question, though, that certainly if you have 55% of the mall open, you do feel some pressure to open yourself because of the traffic and the chance. The experience we have seen in the short period of time that malls were open was that many stores were closed, oftentimes smaller stores, where the chains were not. So I think to say every single one feels it needs to be open would not be accurate, and not every one of our stores was open. It depended on the section or area they were in. Conceivably there were some that, if there were several stores nearby, maybe only one in an area was open.

Mr Mills: Would there not be some pressure from the mallholders to put some pressure on leaseholders that, "If you open, this store will open and this store will open," because I believe some of the malls are on gross. That bothers me about the family day that a lot of people cherish, that whiplash effect.

Ms Cox: I cannot comment on the mall developers' and the mall managers' position.

Mr O'Connor: I want to thank you for coming today. I believe that a lot of what you are talking about relates more to some of the other problems and ills that face the economy today: the recession, the GST. Of course, you have a friendly government here that did not tax that tax with its first bill in the House, which we are quite proud of.

Interjection.

Mr O'Connor: Yes, we left a little bit more money in there for the consumers out there. In any case, we are in very difficult times and we admit that as well.

You talked about support for the employee. Do you feel you speak for all retailers in that aspect? We did have a presentation here yesterday by the shoe retailers that of course did not support the Sunday shopping issue. They were more concerned about the common pause day, and realizing the fact that there is not any extra money in the economy whether you are open that extra day of the week.

Ms Cox: I do not know how the shoe people can say there is not extra money in the economy when we think we are losing \$100 million to Buffalo.

Mr O'Connor: Cross-border shopping is the issue you are trying to spell out for us, not necessarily the Sunday shopping issue.

Ms Cox: At an awful lot of our stores, like Thriftys and Bi-Way, people will shop on Sunday in those stores instead of going across to Buffalo. It is not worth the gas money to do so. These are not expensive stores for people to shop in, so we do think we would keep people here in Ontario.

The Chair: Thank you, Ms Cox.

Before we have our next presenter, I would like to make mention of the fact that on our schedule this afternoon we have at 2 pm a presenter called "to be confirmed." "To be confirmed" has changed its name to Paul Magder Furs.

We have, I believe, a presentation from the Metropolitan Toronto Convention and Visitors Association.

Mr Sorbara: Mr Chairman, just before we go to our next presenter, if I might raise a point of order with you, it arises out of the discussions that took place during the presentation of the last witness. I believe that we as a committee must agree on what is actually in the bill. We can have different views about that, but surely we must not allow ourselves to misrepresent the legislation to the witnesses who come before us. My submissions during the presentation of the last witness—

The Chair: Mr Sorbara, I appreciate your concern. I understand what you are wanting to make—

Mr Sorbara: If you will allow me just to—

The Chair: On the other hand, I cannot arbitrate upon what is and what is not in the bill, and to some degree there is always going to be interpretation on that.

Mr Sorbara: But, Mr Chairman, if I might just finish my point.

The Chair: I would suggest that, while we are going to have slightly different questions and preambles to those questions, I think that is certainly in order and I think we should spend our focus here with the witnesses who are before us.

Mr Sorbara: If you might let me complete my point, sir.

The Chair: We have already had witnesses waiting an undue amount of time, one of whom is in front of us at the moment.

Mr Daigeler: Mr Chairman, on a point of order—

The Chair: On that same point of order?

Mr Daigeler: Yes. I have not heard the point of order. Have you heard the point of order?

The Chair: I have not heard the entire point of order, Mr Daigeler. However, it is also my right to cut discussion. I think we have an obligation when we have witnesses in front of us. I believe that after the witnesses have finished we can raise points of order, but it is only polite, when we have people waiting for us, when we are substantively behind schedule, to pay attention to the fact that we have people waiting for us, and wherever we have issues such as Mr Sorbara's, we could deal with them at the end of the morning's proceedings.

Mr Sorbara: Mr Daigeler is absolutely right. Once again you have not allowed me to even put the point of order before you.

The Chair: I had heard enough that I was wishing to rule negative.

Mr Sorbara: You have the right to rule here, but certainly you do not further the ability of this committee to deal appropriately with this bill. I could make the point to you in about two minutes, sir.

The Chair: I have ruled, Mr Sorbara. We have Mr Innes in front of us. If you wish to discuss the issue further, we can do that at the end of the morning's proceedings, please.

Mr Sorbara: Can you just tell me on what point of order you ruled? What was the point I was making to you, sir?

The Chair: Can we discuss this further, later?

Mr Sorbara: I am at your disposition. I am just asking you what you ruled on. What point of order did I make and what did you rule on that point of order? What was your decision on it? I have not even had an opportunity to present the point before you. That is my problem, and that is the problem Mr Daigeler raised.

The Chair: Mr Sorbara, you were bringing up an issue about an interpretation of the bill on which there was a difference from the government caucus. I believe those kinds of points should be discussed in detail in a clause-by-clause consideration of the bill.

Mr Sorbara: No, sir, indeed that was not my point of order.

The Chair: Given the extent of the bill and the time we will have to discuss that, I am sure that will be a lively and interesting discussion, but I am also sure it is one that the witnesses do not need to be directly involved in the heat of. Can we proceed with the witness in front of us?

Mr Sorbara: I acknowledge your right to rule on a point of order. I just can advise you that was not the point of order I was about to make, but I accept your ruling, for what it is worth, which is not very much, sir.

The Chair: If it is not, sir, then could we discuss that at the end of the morning's proceedings? Mr Innes, please.

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METROPOLITAN TORONTO CONVENTION AND VISITORS ASSOCIATION

Mr Innes: Thank you, Mr Chairman. My name is Richard Innes. I am the vice-president of marketing for the Metropolitan Toronto Convention and Visitors Association. The association is a non-profit marketing and sales organization representing some 800 companies comprising Metro Toronto's tourism industry, an industry which accounts for more than 103,000 person-years of employment and generated some \$2.5 billion in tourism expenditures in 1990.

Our mandate is very simple. It is to create business by attracting visitors to Metro Toronto. Our goal of generating increased revenues for the community, maintaining jobs and remaining competitive is the foundation of our position on the Retail Business Holidays Act.

The MTCVA has gone on record many times in the past as being supportive of Sunday openings. We feel the current legislation is both inadequate and inequitable and that only shops in certain tourist-designated areas can open Sunday, while, for example, the country's number one tourist attraction, the Eaton Centre, is excluded.

Based on the tourism impact model that was developed by the firm Laventhol and Horwath, shopping accounted for \$514 million in tourism revenue in Metro in 1990. In another study we commissioned, Goldfarb Consultants measured travel behaviour and motivation. Shopping ranked as the highest top-of-mind association with Metro Toronto among residents of our prime US and Ontario markets and second as the reason to visit our city.

Cities such as Vancouver, Calgary, Buffalo, Boston, Chicago, Detroit and New York all offer visitors Sunday shopping. In order for us to compete against these markets, we must offer a similar position.

The association, as part of our 1991 marketing plan, is placing increased emphasis on promotion of retail shopping as a lure to out-of-town visitors. Queen's Quay Terminal, for example, is one of our members and has aggressively pursued the out-of-town market. With the ability to sell on Sundays, Queen's Quay Terminal credits shoppers from outside Metro with more than 26% of its retail business. Similar opportunities would be available to other retailers in Metro to attract out-of-town revenues through Sunday openings.

This forces us to conclude that should shopping on Sunday become a reality in Metro Toronto, our visitors would take advantage of it and leave additional visitor dollars in Metro during a weekend stay, thus maintaining and creating jobs. Saturday and Sunday are key days for visitors who travel to Toronto. Hotels offer weekend packages to stimulate business and convention delegates, enabling them to either arrive prior to the start of a convention or remain after to enjoy the city. Sunday becomes a prime day for these visitors to exercise their desire to participate in the single most significant activity they enjoy, that being shopping.

The MTCVA believes Sunday shopping is good for Metro Toronto and its \$2.5-billion tourism industry. It would provide added revenue to the community, stimulate employment and, more important, allow us to be competitive in the tourism marketplace.

The key point to consider is that shopping draws tourists. In order to remain competitive, we must have it. Without it, the tourist industry suffers directly through loss of share of market. This affects employment not just in the retail sector but more importantly in the hospitality industry, an industry that is made up of unskilled and semi-skilled labour in hotels, restaurants and attractions, placing added pressure on the welfare roles.

My organization, ladies and gentlemen, representing the tourism industry in Metro, urges you to consider the policy that is before you, the act that is before you, to remember the tourism industry and realize that it has added impact, not just on the retailers but on the balance of the tourism industry, not only in Metro but also in the province.

Mr Sorbara: I am looking at the third page of your submission, and I am looking at the first set of statistics, which show the number of visitors in Metropolitan Toronto over the past four years, beginning with 1988. You show a steady decline and a stabilization for 1990 and 1991 at 16.7 million. Could you explain what these figures mean for the retailing sector and for your sector generally, the hotel, hospitality, tourism and retailing industry for Metropolitan Toronto?

Mr Innes: The decline is indicative not only of this city but also of the industry. There has been a decline in the number of visitors travelling in general. We have experienced the decline in past years, more so last year, and we hope to hold the line this year. But it has an impact directly on the hospitality industry in terms of loss of jobs. The rule of thumb is that every 5% drop in hotel occupancy accounts for 3,000 jobs lost in the hospitality industry or hotel industry directly. I could not comment on what effect it would have

on the attractions, restaurant or retail, but we would assume that it would have an effect.

Mr Sorbara: Recently the Hotel Triumph in Toronto closed with a loss of several hundred jobs. Is that an indication of the state of the industry?

Mr Innes: Yes, sir.

Mr Sorbara: You said that Queen's Quay is allowed to open but the Eaton Centre is not allowed to open. Can you explain why the distinction is made between the tourist attractiveness of Queen's Quay and the tourist attractiveness of the Eaton Centre?

Mr Innes: I can comment that the location has a lot to do with it. On the lake, Queen's Quay Terminal is a popular spot for tourists. There are a number of other activities they can do and enjoy on the waterfront, whereas the Eaton Centre is located in the downtown core, located in closer proximity to the majority of hotels in this city. I guess, because it is constituted as a retail section or a retail area, it does not warrant the designation of a tourist area.

Mr Sorbara: The Eaton Centre is every bit as much a tourist attraction or a tourist destination as is Queen's Quay, and they are both retailers, are they not?

Mr Innes: Correct. I would go so far as to say that in terms of the number of out-of-town visitors who walk through the doors, at the Eaton Centre they would be significantly greater than at Queen's Quay.

Mr Sorbara: Would you agree with me that the retailing at Queen's Quay is on average at the higher end than the Eaton Centre, which has the Dylex stores and the lower-priced stores as well?

Mr Innes: I could not comment on that. I think there is a greater selection of specialty stores at Queen's Quay that could be more expensive, and a more mainline array of products available in the Eaton Centre.

Mr Sorbara: If there was greater freedom in Metropolitan Toronto to decide what hours, if any, it wanted to allow Sunday shopping, would you expect that every retailer in the Metropolitan Toronto area would want to open on Sunday?

Mr Innes: Under the classification of a tourist designation?

Mr Sorbara: No, just open. Let's assume, for example, that Metro said any store that wants to could open between 10 and 6. Would you expect that every retailer would open?

Mr Innes: If you are asking my opinion, I would say no.

Mr Sorbara: Would you expect that a great part of the retail workforce would be coerced into working on Sunday against its will?

Mr Innes: No. The hospitality industry, as you know, is an industry that is one where when you decide you want a career in the hospitality industry, Sunday is a day of work. The hotels do not close on Sunday. Attractions do not close. They are part of our leisure activity, and so on entering the hospitality industry, it is a given that it is a day of work. Scheduling is done so that you have a day off or days off, but Sunday may be a day that you work.

Mr Sorbara: Mr Daigeler has some questions, sir.

Mr Daigeler: I really just wanted to know how you feel about the proposed tourism exemptions and the process that is being set up. When we were talking to the minister yesterday, I thought he was extremely flexible with regard to the possible definition of tourism. He went so far to say that whatever promotes tourism can also fall under this exemption. I think he really was inviting the tourism industry to be creative and use that exemption as widely as possible. Do you have any comments on that? Are you prepared to do that? What do you say with regard to the definition of tourism that is being put forward?

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Mr Innes: From a marketing standpoint, we know tourists. We know that their activities vary. We know that when they shop they are not just looking for souvenirs. Shopping is an activity. It is almost like strolling about, which is a category that Tourism Canada defines in its marketing plan.

In terms of where the tourist wants to stop and exercise that right, it could be any number of things. In terms of where the minister's position is—we are appreciative of his ability and his willingness to be open with our industry—where we find it difficult is that it will ultimately be up to a municipality, which could in fact enforce or veto any kind of proposal that is put forward. How long is a piece of string? I think that will be where the minister may be open, encouraging us to be creative in how we designate tourist areas. The local municipalities may not be.

I think what designates a tourist area and what does not is a very subjective issue. Our position is that open shopping for tourists will increase our share of the market, will increase our ability to draw visitors, and will therefore enhance the number of people who come to visit Metro Toronto.

Mr Daigeler: Are you therefore, like many other groups, arguing for some provincial appeal board that may have the ability to overrule municipal decisions?

Mr Innes: I am not arguing for that. I think that may be an option that would allow a local area, a business development area or an attraction area that has a shopping complex in it the opportunity to appeal and to provide its case, to deliver numbers—how many out-of-town visitors come through its doors on a Sunday—and to justify its ability to open or be closed on a Sunday.

Mr Carr: Thank you for taking the time to come here this morning. One of the questions that arose yesterday with one of the groups that came in—I think it was the retail shoe group—was that it said the reason we will not hear very many presentations from some of the retail groups is that they are divided. Their organization cannot get a clear mandate to come before this committee and present because they are divided, whether it be 50-50, or it does not have a clear mandate.

You represent some 800 companies. How have you been able to ascertain that what you are putting forward here in the brief reflects the vast majority? What is the process you use to ensure that all 800 companies are represented and that you get a mandate to do this?

Mr Innes: We represent the industry. This industry has come before our board. We have representation on our

board of directors from every sector of the organization. As representatives, whether it be with the convention service company or the attractions council, they have all talked at length with their constituents. This is the feedback that we have got and that we have been directed, approved at the board level of our organization, to come forward with. For many years now, that has been the position.

Mr Carr: So you believe you have a mandate to represent the 800 companies, as you have done.

Mr Innes: Yes.

Mr Carr: I noticed the words that you use, "The current legislation is inadequate and inequitable." What do you say to a Solicitor General who says that this piece of legislation is going to be good and that this is the way we are going to proceed, and yet you have people representing 800 companies in the industry saying it is not? To use your words, it is "inadequate and inequitable." What do you say to the Solicitor General about that?

Mr Innes: Although the Minister of Tourism and Recreation has tried to do his best to make that a major part of the bill, it has been limited to the retail sector. I do not think the issue of the loss of employment or the loss of market share as it relates to the visitor market has been weighed in terms of the significance it plays in the total economic wellbeing of our province. That is how we can come to this hearing and represent our industry with those facts.

Our industry is very much an invisible industry. It is more than just the person who checks you in at a hotel, takes your bags and cleans your room. The ripple effect of the tourism industry is significant. We now have made major steps with the federal government in realizing the importance of our industry. We are making major steps with the provincial government. The Metro government recognizes and invests significantly in our industry because it realizes the payback. I think our point would be that tourism is important, that tourism suffers.

Mr Carr: What you are saying is that the government does not understand your industry essentially, right?

Mr Innes: I think so; fully understand it.

Mr Carr: I just happen to agree too, quite frankly, for a lot of industries, as a matter of fact, not just your own, but I will save that for a speech for the House.

One of the concerns people have is that with different municipalities doing different things you are going to have some municipalities open and others closed. How do you see that affecting some of your members? Some of your members will be happy with that. Do you see that happening, or do you see all opening as the domino effect happens? Where do you think we are headed, and how will it affect you?

Mr Innes: I am here representing Metro Toronto, and if Metro government approved openings then it would not be an issue.

Mr Carr: But if, for example, Peel opens, do you think there will be pressure on Metro to open? Do you see that happening, or do you see it being in isolation and the people of Metro just saying, "No, we're going to decide"?

Mr Innes: Again, I come at it from a competitive standpoint. We have members in Peel. We have members in all the regions of southern Ontario, in fact—out-of-town resorts and what have you. If, for example, a competitive destination allows it and our destination does not, that puts us at a disadvantage.

Mr Carr: Even worse than you are now? If everybody is closed it is bad enough, but if Peel opens and Metro closes, then I suspect it would really hurt you.

Mr Innes: I could not go as far as to say Peel, because I look at the tourism product. I have to look at what is there.

Mr Carr: They would be here anyway.

Mr Innes: And there is not a lot in particular in that region.

Mr Frankford: In your list of cities on the front page, you do not have Montreal. Can you tell us about the situation there?

Mr Innes: I cannot. I do not know the situation in Montreal. In terms of a city destination, when we do extensive research with our visitors, both in the Ontario market and in our US border cities, Montreal, as a city trip, does not enter as a major competitor for us.

Mr Frankford: But in its Sunday policy, is it wide open or is it not?

Mr Innes: I do not know the situation in Montreal.

Mr Frankford: It surely is a very competitive market for us and if they were open it would, by the arguments you state, have a competitive edge.

Mr Innes: Yes. Again, I go back to our research and look at the number of visitors who, when asked, "When you would like to go on a city trip, where would you go?" say that Montreal falls very far down on the list. So we would not categorize Montreal as a prime competitor to us. I cannot comment on—

Mr Frankford: But in terms of Sunday shopping, if they had it, by the arguments we hear, they would have a competitive edge.

Mr Innes: I would think so, yes, they would.

Mr Frankford: But you are not sure if they do. You are not sure of any pressures in Quebec to change or how this legislation compares with—

Mr Innes: No.

Mr Frankford: No. So this would suggest that it is not that simple and, in fact, what one is talking about is more competition in terms of prices and the level of the dollar.

Mr Innes: I do not understand that.

Mr Frankford: What makes us competitive as a shopping destination, I would suggest, is certainly to a considerable degree, which we cannot ascertain, dependent on the level of the dollar, not dependent on Sunday shopping?

Mr Innes: No, sir. Visitors come here from the US to experience the city. We are the number one city of choice when they want to go on a city trip in all our border US markets. People would rather come to Toronto before Chicago, New York, Boston. They rank us and we have quantitative research to substantiate those figures.

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Mr Frankford: Despite our lack of Sunday shopping, they still feel that way.

Mr Innes: You look at the numbers in terms of the decline of visitors and that is where we have an issue. As we lose those visitors, we lose our share. We need every competitive advantage we can as we go against our competitors.

Mr Frankford: And clearly it is coinciding with the high value of the Canadian dollar. These figures can also be well correlated with the value of the Canadian dollar.

Mr Innes: They have some, yes.

Mrs Haslam: I am going to take umbrage at one of your comments, because you said the Eaton Centre is the country's number one tourist attraction. You must know that I come from Stratford, and that has the Stratford Shakespearean Festival, and I know how much we gain from the tourist trade and how many visitors we have. So I am going to ask you for proof of that, because I personally think we are.

Mr Innes: The Stratford festival is a good standing member of our organization.

Mrs Haslam: Very true. That I would like to go into. You do not feel we understand tourism, and I would like to take umbrage at that too, because I believe the minister has shown by bringing forward these criteria how concerned he is, how interested he is and how much he understands because of those criteria. Have you seen the criteria that are in place in this proposal for tourism?

Mr Innes: Yes.

Mrs Haslam: You have. Would you add anything to it? Would you delete anything from them?

Mr Innes: I think the whole issue is in "designated." What is a designated tourist area and what is not? That, very simply, is what we need to determine. If we can come up with an agreement that designates a tourist area, that is our secondary position. That is not the ultimate position this industry would like to be in. I think wide-open shopping is where we—

Mrs Haslam: No, I am not talking about wide-open shopping. I am talking about designation of a tourist area if the area has historical or natural attractions, the area has cultural or ethnic attractions, the area provides a concentration of hospitality services; four, five, six, I could go on. I do not like to waste time.

Mr Innes: It is very broad and very open.

Mrs Haslam: You would like it tightened?

Mr Innes: No, ma'am.

Mrs Haslam: You would not like to see it tightened. You would like to see it broadened more? Because we have already had representation here saying it is too broad. So when I mark down, "He thinks it's too broad," now I am saying you do not like it this broad, you want it tightened up.

Mr Innes: No.

Interjection: He wants it broader.

Mrs Haslam: You want it broader? You want the tourism criteria—

Interjection.

Mrs Haslam: Mr Sorbara, I can ask my own questions. Boy, you are beginning to bug me. You want these a little broader in tourism criteria.

Mr Innes: Ultimately, yes. Wide-open would be great. That is not on the table.

Mrs Haslam: No, no. You want wide-open tourism criteria.

Mr Innes: Ultimately we do not need it. Opening on Sunday would give us what we want.

Mrs Haslam: But you represent a convention and visitors association and you are saying you do not want to have a tourism criterion in this legislation?

Mr Innes: We need a tourism criterion. That is the best-case scenario. Correct?

Mrs Haslam: Okay, because I like that. I am going to ask you a couple more questions. How much time do I have, Mr Chair?

The Chair: Two minutes.

Mrs Haslam: Are you in favour of allowing workers to refuse Sunday or holiday work?

Mr Innes: I cannot comment on that. I have explained that the tourism industry is an industry in which everybody works on Sunday. That is part of the deal.

Mrs Haslam: Are you in favour of guaranteeing 36 continuous hours of rest time in any seven-day work period?

Mr Innes: In the tourism industry?

Mrs Haslam: No. Are you in favour of guaranteeing 36 continuous hours of rest time for employees in any seven-day work period?

Mr Innes: Again, I cannot comment on that.

Mr Fletcher: You are an employee. How do you feel?

Mrs Haslam: Are you in favour of strengthening the role of employment standards officers in dealing with employee grievances?

Mr Innes: Again, that is not why I am here. I am here to promote—

Mrs Haslam: But that is part of this legislation and I just wondered if you had looked at that and had an opinion.

Mr Innes: I do not have a comment on that.

Mr Sorbara: Mr Chairman, I wonder if I might ask the indulgence of this committee to ask the witness one more question?

Interjection: No.

Mr Mills: The question I have to ask is not to the gentleman who has made the presentation, but about how we are going to deal with legal staff. Throughout this hearing we have legal representatives from—

The Chair: I am sorry, sir. Are you suggesting that you do not have a question for the witness?

Mr Mills: No. I am going to use my time up to ask this question but I do not want to ask—

The Chair: With the forbearance of Mr Mills, thank you very much, Mr Innes. It is very generous of you to come and join us.

Mr Innes: Thank you.

Mr Mills: I am unfortunately forced to use our time up to ask a question, which I do not think is right. I think that we, during the deliberations as we go on tour, should have the opportunity to call legal staff forward from the tourism ministry, from Labour and from the Solicitor General, and their explanation to clarify some particular item should not be my time because I have asked. Previously, I asked the director of legal services to come forward and that came off our time. I do not think that is fair because everybody has benefited from that.

The Chair: Thank you, Mr Mills. I will consult with the clerk on this issue and, depending on that consultation, I will also, I am sure, consult possibly with you and you can discuss that with the other subcommittee members.

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BEACHES BUSINESS ASSOCIATION

The Chair: We have in front of us a representative from the Beaches Business Association, Ms Suzanne Beard. Ms Beard, thank you for joining us, and our apologies for the delay in our deliberations. You have a quarter of an hour. Please feel free to use that time as you wish. Typically, the members of the committee would like to ask questions of you as well. Go ahead.

Ms Beard: I want to thank you first of all for giving us the opportunity to present our presentation. My name is Suzanne Beard. I am chairman of the business association down on Queen Street. It is a contingent of 288 businesses that are overwhelmingly in favour of Sunday shopping.

We encompass a variety of commercial and non-retail businesses intent on surviving and thriving during a highly volatile economic period. At a time when small business is being engulfed in recession and collapse, we hope the government will reinforce the voice of the people.

Since the opportunity for Sunday shopping has been denied us, the Beaches Business Association has been left with no option but to make an application for tourist designation. We pursued this avenue of action for the sole purpose of securing Sunday shopping. That is the mandate of the Beaches Business Association. It is not our wish to promote the Beach any further, to increase any traffic that is not already there. We wish only to capitalize on the traffic that is currently there.

Over the past seven years, the business association has been denied three separate applications for tourist designation under the old criteria when other municipalities have granted exemptions to places like Unionville, Woodbridge and Cullen Country Barns, none of which have the cultural, historic or geographic beauty of the Beach area. A survey prepared by Decima Research in 1989 listed the Beach as one of the top 10 tourist destinations in Toronto, and none of the other three I have just mentioned are included in that list.

During the trial period of legal Sunday shopping, we had overwhelming support from businesses, residents and the tourist trade, and the 15% to 25% increase in sales during a seven-day week was not experienced when the trial period was revoked and we were forced to maintain sales averaging on a seven-day work week. The increase

was not recovered during six days. This equates to a loss in revenue of approximately \$15,000 for a small business and a revenue of \$7,500 in taxes to the government.

We think common sense and common knowledge would suggest that business is here seven days a week and that we only want to take the opportunity to serve the existing business that is there.

Since over 15% of our businesses are operating in a food service capacity, we have a natural flow of traffic and we want to capitalize on this. The variety of industry that supports the Beach ranges from long-established restaurants and services to unique gift and clothing. Many businesses support handicrafts from areas like India, South America, things that are outlined in the current legislation, while other businesses encourage unique and unusual merchandise that can be purchased closer to home.

Specialized shopping activities catering to visitors and residents alike abound in the Beach. Independent merchants would like the opportunity to serve these people.

We are situated in a prime real estate market and an aesthetically beautiful area of the city constantly being used in advertising as an idyllic spot. The value of our location is recognized by residents, visitors and businessmen alike. An article in the Sunday New York Times, March 31, 1991 issue designates the Beach as a world-class destination for visitors. We are obviously recognized outside of Toronto as a being destination for visitors.

Annual festivals surrounding the Easter parade, the Beach craft show, the Midnight Madness and the Beach Jazz Festival, which was just last week, offer continuous appeal for the area and are anticipated by tourists and residents wanting a unique experience.

Of the 288 businesses within the boundary of the BIA, we are, in the majority, owner-operated businesses. We represent the crux of retail life on Queen Street East between Woodbine and Victoria Park. Our annual budget includes support for local community and recreational events. We encourage maintenance of buildings and street presence and we employ a vast number of local full- and part-time help. An informal poll of employees showed 51% of full-time workers and 63% of part-time workers lived in the Beach area they worked in. Closure on Sundays has resulted in a high number of staff layoffs.

In conclusion, we want to acknowledge that we are aware of public sentiment on our application for a tourist designation in the Beach. However, the mandate of the Beach BIA in making the application is to re-establish Sunday shopping, period. It is very clear from public response at a general meeting we had that the residents are also supportive of this mandate.

Mr Poirier: You have explained to us the difficulty of being asked to be designated as touristic because somebody else in a subjective position decides that you do not deserve or that you do not qualify to be touristic. What do you feel if the current Bill 115 comes forward? Do you feel this is going to maintain or change what you have perceived already with this difficulty of being designated touristic?

Ms Beard: Basically, we can meet the criteria that are laid out with the exception of one point, and since there are several you can choose from, we are well within the boundary of the criteria that are being proposed.

Mr Poirier: Yet you have been refused.

Ms Beard: Not the proposed criteria, the old criteria.

Mr Poirier: Yes. So you understand that you are subjected to the decision of where one municipality may say you do not qualify whereas somebody else may qualify.

Ms Beard: That is quite correct.

Mr Poirier: So how do you feel about that?

Ms Beard: It is not fair. We qualify as well as any of the places that I suggested. I think I pointed out that in the Beach we have a geographic location that far surpasses Harbourfront in terms of natural beauty. We have at least four annual activities that happen in the Beach that are anticipated by people both from around Toronto and around the world. The jazz festival is a perfect example. There are people who come from all over Canada to see it.

Mr Poirier: If I understand what you are saying, you would prefer not having to go through these hoops and circles to demonstrate that you are touristic.

Ms Beard: Yes.

Mr Poirier: You would want to have the free choice of saying: "Hey, we know what is good for the Beaches. We know what we want. We would like to be able to decide without outside intervention when we want to open and how we want to open." Is that correct? Is that a fair assumption of what you want?

Ms Beard: I think that is a fair assumption. Yes.

Mr Sorbara: Mr Chairman, I have one final—

The Chair: We have only 15-minute presentations. Mr Carr.

Mr Carr: Thank you very much and thank you for your presentation. I was interested in how this new legislation will change—the last time you did not get the designation, did you think it was because the people making the decisions were opposed to Sunday shopping? What was the reason you feel you did not get it the last time?

Ms Beard: There was one element of the criteria which established the definition of "tourist" which has always been a stumbling block for our application. They had insisted that 25% of the people who are visiting our area, and the sales that are generated from that 25%, be from outside an area of 40 kilometres. We do not believe that the tourist has to come 40 kilometres to visit another area to be considered a tourist.

Mr Carr: So with that being removed, you feel you probably will get it this time, do you?

Ms Beard: I cannot see that there is any major obstacle in this application. I think we basically meet the criteria that the new proposed law is suggesting.

Mr Carr: I guess my feeling was that if that criteria are removed, it might be a little bit of extra work, because you now presume you are going to have to go and present your case. But if that was removed, which this legislation

will do, there will probably be a pretty good chance that you will get it next time?

Ms Beard: I would hope so.

Mr Carr: With the situation now, you are going to have to go to the council. Is that going to take a lot of time, or how do you see that working? Is that something that would be fairly easy to do, to present your case, and presumably then get the designation? Or does it take a great deal of time to go before Metro council? Are they backed up for months? Have you any feelings on that?

Ms Beard: We have in the works right now an application for a temporary tourist designation, which we requested be for a year. It was denied us. That decision came through fairly quickly. I would assume if criteria are laid down which allow us to qualify, there should not be a lot of dancing around.

Mr Carr: What I am worried about is that there are so many different areas and communities, and agendas being what they are, that councils are going to spend more time on this issue than they will—it will be interesting to see, and I guess nobody knows right now, how far it will be before they get a chance to hear. Is it going to be a backlog of six months before you get a hearing? Is it going to be very quick or what? I guess that is something we do not know.

Ms Beard: I hope they would understand that we have not made the application frivolously. It has been done in earnest. We basically have done as much research as we possibly can to substantiate that business in the Beaches does need Sunday shopping.

Mr Carr: When you dealt with council in the past, they did not go in order but took it on a first come, first served basis? They did not say, "Well, here is one that looks legit, so we deal?" Is it a first come, first served basis?

Ms Beard: I believe that is the way it is done—first come, first served.

Mr O'Connor: Thank you for coming here today. One area in this legislation, of course, is the level where the exemption is being looked at in the municipal option. Do you feel the municipal option you have to meet is being handled by the right tier of government? Do you think it should be left with the local municipality or do you think it should be put to the upper tier, which is Metro Toronto?

Ms Beard: I really cannot answer that. I do not know.

Mr O'Connor: Do you feel that from Metro Toronto you would get a representation, from your presentation, giving you a tourist designation?

Ms Beard: I do not think they can ignore the facts. I think we are recognized as a tourist area. The thing missing from the Beaches is the actual designation.

Mr O'Connor: So the tourist exemption option there is fine the way it is in the legislation?

Ms Beard: We certainly appreciated it and it has allowed us to present our case in a very favourable light, yes.

Mr O'Connor: Do you think there needs to be an appeal? The way it is stated now is that council has the final decision. Do you feel that is appropriate?

Ms Beard: Yes.

Mrs Haslam: Believe it or not, Mr O'Connor has asked the question I was interested in. I am always asking about the appeal process.

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Mr Frankford: I declare an interest because I live in the area and I have daughters who have worked in some catering establishments.

Mr Poirier: So if you shop, you are not a tourist.

Interjection: On Sunday?

Mr Frankford: In accordance with whatever laws.

The questions I would ask have mostly been asked, but I gather you are really quite happy with the tourist criteria in the legislation.

Ms Beard: The proposed criteria, yes.

Mr Frankford: It would seem to fit quite well with what is happening there, although as you say, possibly the 40-kilometre—

Ms Beard: My interpretation of the way you have defined the 40 kilometres is that you have to meet the first part of the criteria before the 7,500-square-foot criteria, which extends to no business in the Beaches; that is, within the Beaches business improvement area. It is a criterion that has to this point been a crux in our application, but it is really—

Mr Poirier: It is a non-issue.

Ms Beard: It is a non-issue. That is exactly right, yes.

Mr Frankford: You heard the previous presenter, from the Metro convention association, talking about the Eaton Centre?

Ms Beard: Yes, I did.

Mr Frankford: Do you feel you would be in trouble compared with big, well-financed interests downtown?

Ms Beard: You mean if everybody was allowed wide-open Sunday shopping or everybody was designated?

Mr Frankford: Or even using the tourist criteria.

Ms Beard: No, I do not. I think the Beaches offers a much more unique shopping and cultural atmosphere than you will get at the Eaton Centre. The Eaton Centre is promoted all over the world, so it is going to be a place people will want to visit. However, I think we offer something entirely different from that, something over and above the good shopping that we have. We have good restaurants. We have a beautiful locale. It far surpasses what people could expect at the Eaton Centre.

Mrs Haslam: I would like to go down there. Will you take me tomorrow?

Mr Frankford: Yes.

Mrs Haslam: Bob is going to take me there tomorrow. I have never been there.

Ms Beard: Good.

The Chair: Thank you very much, Ms Beard.

STONeworks

The Chair: Our next presentation is by Ms Susan Day from Stoneworks.

Ms Day: I am from the Beaches too.

The Chair: As you have seen, we have about a quarter of an hour and you can divide the time as you wish.

Mr Poirier: There is something about the Beaches people.

Ms Day: Yes, we are mouthy.

Interjection: You said it.

Mrs Haslam: You fit in well here.

Ms Day: I am Susan Day. With my sister Sandy, sitting over there, I own a retail shop in the Beaches called Stoneworks. I am only one small retailer. I have owned my business for five years. I am not an expert on the ins and outs of the law, either the old law or the proposed one, but I have become enmeshed in the issue by the mere fact that I bought a business in the Beaches, and I have numerous opinions on the subject.

A little background about my store: We employ between six and eight people at any time, including our mother. We have recruited her. We are currently closing on Sundays, much to the dismay of our customers who have gotten used to shopping in our store on Sunday over the years. We used to be open illegally. Then there was no law, so we were cool. We have always been open, but the hassles by police now are not worth it. They are coming around every week. We did not like going to court the few times we were charged in the past and feeling like common criminals. Being in there with all the people who trespassed and beat their wives and everything else was no fun, so we have decided to close. It is hurting our sales, especially this summer when we rely on an increase in tourist traffic to boost lagging summer sales from regular customers.

During all the time we opened Sundays, our staff understood that they could refuse to work that day. In fact, they can refuse to work any day. As modern and sensitive employers, we realize our employees must have control over and input into many aspects of their jobs or they will not feel good about working with us. We let them determine the kinds of hours they want. We are not rigid about shifts. On Sunday we opened for shorter hours, usually noon until 5. This seemed to suit everyone, employees and customers alike.

The sole reason we ever opened on Sundays, legally or illegally, was to serve our customers. They wanted the convenience of Sunday shopping. We gave it to them. Most of our customers are Beaches area residents. However, on weekends we do see an influx of visitors, or tourists if you want to call them that, to our area. But at Stoneworks we believe totally in customer service, which to us means giving the customer what she wants. Without this philosophy, our business will wither and die.

On Sundays we had three main types of customers. We had the singles, either two women out for a day of brunching and browsing or a sole young person out shopping on her own for a new dress for a party or whatever. We had couples, young or old couples sharing a leisurely day out in the Beaches. We had families, usually young, with kids, finally enjoying some shared time off and taking a look in the stores for items they needed, whether they be gifts for

their friends or just items they needed to choose together, to make decisions on.

None of these people seemed too concerned with a common pause day. They were doing what they wanted to do on any given Sunday—shop. They chose to come into our store. Neither were my employees too concerned with a common pause day. Only those who wanted to work that day did so, and if there was a shortfall, Sandy or myself filled in. It is our own business. We work hard for it and we are very concerned about what goes on in our store at any given time. We are always there.

I feel the proposed legislation, just like its predecessor, will discriminate against retail business. No other industry has such restrictions imposed on it, except perhaps the serving of alcohol in licensed establishments, and they are allowed to do it seven days a week. If retail workers needed a legislated common pause day, why not the workers in the food industry too? Do retail workers qualify for special consideration? Are their customers more a hassle to serve than drunks in bars so that they need a special day off all at the same time?

I submit that labour standards already protect workers, all the workers in this province, regarding the maximum hours they work and the provisions for bonus pay if they exceed those hours.

I suggest you legislate bonus pay for retail workers who work on Sundays if you are that concerned about it, but do not legislate their day off. To be fair about this, better to close all the restaurants and bars on Sundays, as well as the racetrack. I find it ludicrous that someone can get drunk in a bar and go to the track and lose all his money, but cannot buy a birthday card in my store, or that he can go home and use the shopping network on TV.

I feel the new law, like its predecessor, restricts commerce and the free market system. Many retail businesses like my own need to be able to serve their customers when their customers are there to be served. By being closed on Sunday they often miss the biggest opportunity of the week to serve their customers. Sunday was often our best day of the week. It is now Saturday. That is when people are off work. That is when they are out trying to shop. We and many retailers are losing sales opportunities and the government is losing retail sales tax revenue.

I feel the government is interfering in the personal lives of Ontarians. By legislating a common pause day, albeit only for retail workers, people are being told what to do, or rather what not to do, in their leisure time. Government is assuming everyone has family and friends nearby with whom to spend time on Sunday. Life today just is not like that. Only 16% of families today fit the traditional nuclear family scenario, with dad working and mom at home with the kids. Today shopping is a leisure activity for many people, both singles and families. Today Sunday shopping is a necessity for many busy people. Single mothers especially complain in my store about the inconvenience of our being closed that day.

Under the proposed legislation, tourists are singled out for special recognition over citizens of the community. It is okay for tourists to shop on Sundays, but not the people who live there. If you are lucky, like the Beaches, and you

might fit into a tourist designation, then your residents will be able to shop in their community. But it seems to be discriminating against the citizens by granting special recognition for tourists. I know the industry is suffering and I support the tourist designation aspect of this law if it is the only way to get around this.

Going back to what Suzanne was being asked about, who will grant the designations, I am concerned that Metro council will deny our application because our councilman worries that we do not have the infrastructure in our community to support an extra influx of people. When it is left in the hands of any legislative body, there is always a chance it will find other reasons why something can be denied. I just think the tourist thing is discriminatory. How will we even know they are really tourists?

There is no need for a law regulating hours of business for the retail industry. That is my opinion. We always get caught up in the tradition, the old "it's always been that way" thinking. Scrap the law altogether. We do not need it. To guarantee a common pause day for retail workers, a small segment of employees in the province, will inconvenience the consumer, imperil the health of many small and large retail businesses, restrict job growth, turn off the tourist who probably does not like being told where he can or cannot shop, and alienate workers in other sectors who are not protected by common pause day legislation.

On May 22 we held a community meeting in the Beaches to discuss a tourist designation for our area. Residents and business people attended, as did the police, our alderman, our councilman and our MPP, who is Frances Lankin. The residents made it very clear they do not favour a tourist designation simply to allow stores to open Sundays. The words "tourist designation" strike fear in their hearts—more people visiting our already crowded area on weekends. Conversely, the residents overwhelmingly supported wide-open Sunday shopping. They like to browse in the stores in their community on Sundays and they like the jobs provided for their sons and daughters.

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Frances Lankin heard these articulate, intelligent constituents, people who have voted for NDP candidates both federally and provincially for many years. These are NDP supporters and they do not like the proposed legislation any more than the retailers do. At that meeting I asked Frances for a fresh approach to this issue. The people are obviously unhappy with the current trend to common pause day legislation that will discriminate against so many and favour so few.

I am just one small retailer. However, I see my business and businesses like mine are the future of retail in Canada. We are growing and we are taking strides to educate and train both ourselves and our employees. All the courses we take, the seminars we attend and the books we read stress customer service, catering in all ways to customers as the only path to success in the 1990s, and we know that the demise of the department store is a good example: no service, no customers. Everything about this proposed legislation defeats the purpose of that. This legislation merely protects people who do not want to work one day of the week, while penalizing all the people who do.

Mr Sorbara: I just want to tell you, Ms Day, that this probably will be the most refreshing submission this committee will hear. It is certainly to date the most refreshing submission the committee has heard, at least in my view. One of the most refreshing points in it is that one can have voted for the New Democratic Party, continue to support the New Democratic government, and believe that the people of the province are mature enough to look after what they do and what they do not do on Sunday on their own without the interference of government. I thank you for that because I think the points were made clearly and eloquently and with a kind of conviction that we do not often hear before committees of the legislature.

I particularly want to say that you are a business person who probably, under this law, will get a designation and will be able to open, and it was refreshing to hear a plea on behalf of the store just two blocks to the north or two blocks to the west which will be put in a terribly uncompetitive position by being forced not to be able to participate in that market. Is the emerging sense within the people you do business with, and that is not just the Beaches, but the various associations you belong to—I take it you sell retail clothing.

Ms Day: Yes.

Mr Sorbara: What else?

Ms Day: Gifts, stationery and toys.

Mr Sorbara: In your professional association, I take it there is a rapid shift in the ground towards the position that we can look after this business of competing in the marketplace ourselves without the interference of the government trying to determine the winners and losers in the Sunday shopping debate. Is that the case?

Ms Day: Yes, I think the retailers are not being listened to. It is my opinion, for what it is worth, that the government has the ear of certain unionized retail workers at the expense of everybody else. There are some workers who do not want to work on Sundays and their concerns seem to have been blown out of all proportion.

Mr Sorbara: You have, for a small store, a pretty big workforce. Have any of your workers ever been put in a position where, against their will and over their objections, they have been forced to come in and work in your store on Sunday?

Ms Day: No.

Mr Sorbara: Would you ever think you would be in that sort of position?

Ms Day: No. It is not the way I run my business. I would not have employees very long if I tried to operate that way.

Mr Villeneuve: Ms Day, thank you for an excellent presentation by a real person running a real store. We have a lot of theory—people come here with great theories—but you have hit the nail right on the head.

Discrimination I have found most interesting because you are a taxpayer and live in the area, and yet if you do not happen to be catering to the tourist industry, you will not be allowed to open. I think you raise a very good point, that you are being overlooked and you may become part of

the cog in that wheel that says you are allowed to stay open, but not because of what you do; it is almost in spite of where you are. Maybe you could comment a little more on that, and also on the fact that the community is a strong community, that you are contributing to that community and yet outside people come and dictate a great deal, and in so doing discriminate.

Ms Day: I just think we need a whole fresh approach to the issue. I do not know why we are all so worried about telling retail when it can and cannot operate. We were talking about Montreal—someone was asking—they do not have Sunday shopping in Montreal. They cannot open after 5 o'clock on Saturday in Montreal, and they cannot open Monday, Tuesday and Wednesday evenings past 6 o'clock in Montreal. It is crazy, laws in this land that have been on the books for ever and we think: "We just cannot throw them out. We will have to just rearrange them a little bit and try to make them a little bit looser. We do not need to say, "This area can be open and this can't," on one day of the week when it is legal to be open any time you want on the other six.

What other crime is there in this country? You cannot murder anyone any time. That is wrong. You are not supposed to steal any time. But one day of the week it is illegal to go shopping, or illegal actually to open your doors because the customers do not get charged; the retailer does. If you made it illegal to shop—it is like drinking in the park.

Mr Villeneuve: We very much have the Big Brother syndrome here. I think the more we go on with that, the more alienation there will be from the business community. I think we are seeing it now. How would you feel if eight of your employees decided to unionize? Do you feel that would create a split between management, yourself, owners and—

Ms Day: No, because I do not operate my business in that way. We are all together in the decision-making. We share our information with our employees. We are small, so we are able to do that. If the employees do not want to work, they do not have to. I have people who want to work two days a week. I have people who want to work every other week full-time. I have people who only want to work on weekends. I had a student I had to lay off. Saturday and Sunday was when she worked and I did not have enough hours any more. It is a give and take thing. There are times when you are stuck and you need someone to come in. They did not really want to, but they will. Then you owe them the favour or something else that they want the next time. That is how I run my business.

Mr Villeneuve: Would most of the retail stores in your area be non-unionized?

Ms Day: Oh, yes. They are all independents or franchises.

Mrs Haslam: I have a couple of things. Do you think Sears is as understanding in running its business as you are as a small family business?

Ms Day: They are larger so it is harder. I used to work for Simpsons. I worked for Simpsons for 17 years and I know what it is like to work for a large retailer. I would probably feel like the retail employees in a large store if I

was sitting on that side of the fence right now, "Don't make me work on Sunday."

Mrs Haslam: Do you agree with allowing workers to refuse Sunday or holiday work? Obviously you do, because you allow them to do that.

Ms Day: Oh, yes.

Mrs Haslam: Do you agree with guaranteeing 36 continuous hours of rest time in any seven-day period?

Ms Day: I think that is reasonable.

Mrs Haslam: Do you agree with strengthening the role of the employment standards officer in dealing with employee grievances?

Ms Day: Yes.

Mrs Haslam: When you mentioned that your busiest day now is Saturday, because that is when people are off, to me that was an opposite view to take. You are saying your busiest day is when people are off work and yet you want wide-open shopping so they do not have that busiest day, so they do not have that opportunity for the whole family to go shopping.

Ms Day: It is like the hospitality industry, as the gentleman from the Metro convention board said. If it is a real-world scenario and retail is open seven days a week, when you choose a career in retail—it might just be a part-time career and it might be just temporary—you know those are the rules of the game in retail. Most people do not work in retail. Retail serves people. It is a service industry, so just like a restaurant that is open seven days a week, because people eat seven days a week, it has become that shopping is an activity that people do and we are trying to tell them when they can do it.

Mrs Haslam: I find it very interesting that the impression is given that certain people believe it should be open seven days a week. Mr Sorbara, do you believe it should be open seven days a week?

The Chair: Mrs Haslam, Mr Sorbara is not one of our witnesses.

Mrs Haslam: I am sorry, Mr Chair.

The Chair: Do you have a question for Ms Day?

Mrs Haslam: I do have one more. Under the previous legislation you found it even more difficult. Are you in agreement, then, with having this type of tourist criteria opened up a little bit or would you like to tighten it up a bit?

Ms Day: I like the way the legislation is right now. To tell you the truth, I am one of the authors of the submission that went to the Solicitor General by the Beaches business improvement area, and the criteria that are laid out now are very close to what we suggested. I am quite pleased. I feel like I had a hand in this.

Mrs Haslam: I am sure you did.

Mr Mills: I would just like to make a couple of comments if we have any time left. How much time have we got?

The Chair: Are they comments to the witness?

Mr Mills: They are. I would just like to thank you for being here. In my employment years I have worked for some real oddballs, and I would have loved to have worked for you because you seem such an ideal employer.

If everybody was like you, the need for the legislation we are trying to introduce would be lessened a great deal.

I would just like to say to you that contrary to what your belief may be, this legislation is draft legislation. We are here to listen and I am listening. Apart from the ideology of it, that we are committed to a common pause day, there are lots of areas I am prepared to listen to and take forward at a future date. I thank you for coming.

Ms Day: Can you tell me why you are committed to a common pause day for retail workers only?

Mr Mills: We are committed to a common pause day for retail workers because traditionally the retail worker is the one who suffers most in Ontario. Traditionally, and I do not say this condescendingly, they are less educated.

They are more vulnerable to tactics by employers—not like you, I might say. We have identified them as the most vulnerable of workers in Ontario, so our legislation is designed to protect those we see as the most vulnerable. I must go on to say that we have not sprung this on people. It was part of our election mandate and we are really following up on what we said in the election.

Ms Day: Small business is vulnerable too.

Mr Mills: I would imagine that since we won the election, some people support us.

The Chair: We will be resuming at 1:30.

The committee recessed at 12:32.

AFTERNOON SITTING

The committee resumed at 1332.

TOWN OF GEORGINA

The Chair: Our first witness this afternoon is Mayor Robert Johnston from the town of Georgina. I apologize, Mr Johnston. I think some people are a little late coming back from their lunch hour.

Mrs Haslam: Those who are here are very interested and are worth much more than those who are not.

The Chair: We have approximately half an hour. I am sure your colleague probably briefed you a little bit about what has been happening. Take that time in whichever way you wish, but typically it is half of that time for your presentation and the other half for questions from committee members. Please feel free to start when you are ready.

Mr Johnston: My name is Bob Johnston. I am the mayor of the town of Georgina. I have held that position since December 1, 1988. For the 13 years prior to that, I was the editor of the local weekly newspaper in Georgina.

The town of Georgina is a regional community at the north end of York region, roughly 40 miles north of the eastern side of Metropolitan Toronto. Our municipality has a population of 32,000 people, who are spread over some 200 square miles and three communities, Keswick, Sutton and Pefferlaw. The northern and western municipal boundary is Lake Simcoe, giving us 30-plus miles of shoreline. From the early 1890s, much of that shoreline has been developed with summer cottages and a variety of tourist businesses spread along the lengthy shorefront community and in the town's major communities.

We are a municipality within the riding of MPP Larry O'Connor. We had to get that in.

Our municipality has a long and well-recorded history of being a tourist area. Champlain, one of the early European visitors, decided in 1615 to spend the fall and winter in the area of our community. In his journals, he referred to Lake Simcoe as the Lake of Stakes, a direct reference to the winter activity of ice fishing. Our municipality is the ice fishing capital of Canada and some 60,000-plus fisherpersons enjoy the sport during the months of late December through mid-March each winter. Georgina has won the right to host the 1992 world ice fishing championships, which will occur next February at Jacksons Point.

Tourism has played a large and valued part in our enjoyment of the lake and the economic prosperity of the communities that front on Lake Simcoe. In 1870, a railway ran to Jacksons Point to haul ice to Toronto. In the 1880s, the Metropolitan and Toronto Electric Railway was pushed north of Newmarket and then on to Jersey, Medina, Roches Point, Island Grove, Willow Beach, Jacksons Point and finally into Sutton, Sutton being the northern terminus of this line. Both the railway and electric railway also opened the shoreline to the development of high-class summer havens, typical for much of the earlier part of this century. Today, the Briar's Resort and Convention Centre and the Georgina Inn remain as world-class resorts dealing with people from across the country and throughout the world.

In the middle of the 1970s, a local clothing store merchant, Angelo, who runs a store in Keswick, began working towards having his store and others in Georgina opened on Sunday. This was granted in 1978. Since then, we have been a designated tourist area under the Lord's Day Act and the subsequent legislation, and our stores have had the right to be open. Merchants have been the only ones who decide whether they wish to open or close. With nearly 14 years of continuous Sunday openings, I can honestly report several facts to this committee.

There is no common response among stores as to who is open or who is closed.

Our biggest food store, Verdoold's IGA in Sutton, remains closed despite direct competition from a smaller chain store and numerous convenience stores being open. The store remains closed because of religious decision. This store not only has expanded its operations but five years ago moved to a new location and opened one of the largest independent IGA stores in Canada.

We have one of the largest fireplace stores, the Mason Place, which does major advertising across southern Ontario promoting the variety of products it sells and installs. This store is also closed because the owner has a religious conviction.

This independent decision of merchants is not unique or only based on religious grounds. The hardware store in Sutton remains closed on Sundays, even on long weekends, while another opens. The Canadian Tire store did open for several Sundays but decided to be closed despite the fact that the hardware store some 300 feet north remains open from 10 am to 4 pm on Sundays. There are a number of stores that opened to serve customers on Sunday and then after varying periods of time have closed because their owners felt there was no additional service or business being created.

In Sutton and Jacksons Point, we have had for most of this time two drugstores, Eustace's and Luke's, one in each community. These are your traditional drugstores with in excess of 2,400 square feet serving a variety of drug, medical and beauty aids, cards and wrapping paper. The two fathers, and then the two sons, have competed for years. These two stores for years had agreed among themselves to have one open and the other closed. In fact, the store that was closed had a sign in its window directing shoppers to the other store some three miles away.

We have major tourist businesses, including Dawson's Marina and Crate Marina in Keswick. These are large cruiser and boat sellers, both with international reputations for the sale of costly and outstanding performance boats. As well, we have Quinn's Marina in Pefferlaw, which sells and manufactures large boats. Dawson's and Crates's sales rooms are open, while Quinn's are closed most Sundays of the year.

In Pefferlaw, we have a well-known and respected furniture and appliance store, Bodley's. This store, now in its fourth generation, is a high volume store that remains

closed on Sunday, despite the fact it sells products to people living throughout the entire greater Toronto area.

As well as the normal commercial stores, we have a number of talented residents who provide unique manufactured products. Again, we have some who have their sales offices open and some closed. Robshaw in Baldwin and Baker's Furniture in Pefferlaw are local cabinet and carpentry shops which make handmade cabinets, curio pieces and other wood furniture. Robshaw is open and Baker's is closed. They are some 10 miles apart on or just off Highway 48. They compete with the regular furniture stores both within and beyond our municipal boundaries.

We also have an unusual combination of businesses. In Keswick we have a Sears store warehouse. This is open Sunday afternoon, but the Sears catalogue stores in both Sutton and Pefferlaw are closed. The Sears store shares space with a travel agency and the Pefferlaw store is in a convenience/junior department store.

What stores open, or do not, do so for a variety of reasons, some religious and some financial. I must indicate that in some of the final months before Christmas we did find that some merchants who are normally closed did open on Sunday afternoons. That could have been because of the huge amount of advertising being done by some of the larger malls in municipalities to the south of us, which were open due to the existing legislation. This year, under the new legislation, these malls will not be open on Sunday.

One statement about our commercial business is that few are open beyond normal working hours. The majority of the stores are open Monday to Saturday from 9 am to 6 pm and are only open late on Thursday and Friday nights to 9 pm. Sunday hours are divided, with some open 10 am to 4 pm and others open noon until 4 pm. Our municipality is not a place that runs lengthy open hours seven days a week. The only businesses that are open late are the convenience stores.

The time of year has not been a noticeable factor in which stores are open. During the late spring, summer and early fall, the highest tourist business seasons, we find a few more stores open, but that may be 10 or 15 at most across our entire municipality. Several stores are open during this period only—ice cream stores, hamburger restaurants and vegetable or fruit markets.

As part of the previous council decision under the old legislation, the only days our businesses are closed are Christmas Day and New Year's Day. All other holidays have been removed from the restrictions. These stores are open on summer holidays, May 24, July 1 Canada Day weekend, August 1 Civic Day weekend and September 1 Labour Day, but on other holidays are closed or on reduced hours. Thanksgiving, Easter Friday and Boxing Day do not have as many stores open.

I guess one of the things that remains an anomaly is that several of the stores still close Wednesday afternoon. This is a hold-over and fewer stores are taking that, but there may be as many as 20 which still close on Wednesday afternoon. Our business people are quite independent-minded.

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In the proposed legislation, our municipality falls within most of the definitions of what you may consider as a tourist

area. There are several areas that would cause our municipality considerable problems if they were introduced.

My first concern is if the legislation tries to impose limits on what type of store may open. Should the furniture store be closed if it sells on commission local water colours, pastels and paintings or other pieces of art, while next door a clothing store that sells swimwear is open? Should the grocery store that sells food items and also a variety of summer picnic material be closed because the local person decides to do his usual shopping on Sunday? How can we allow a Becker's, Mac's or other local convenience stores to be open, selling a variety of food products, and not allow the supermarket chain to be open? There should be a municipal or area-wide shopping designation allowed by the local municipality, and I stress that it should be the decision of the local municipality, not the regional municipality.

I believe, as do our business associations, and we have four of them—the Georgina Board of Trade, Sutton and Jacksons Point business improvement areas, and one business group, the Uptown Keswick Business Association—that a community-wide designation should be possible.

To discriminate from having a business open would be arbitrary and therefore extremely controversial or require such massive legislation that it will be almost impossible for comprehension. To try to define what business many of the stores are in is often difficult, as merchants have a variety of merchandise and services available.

One other factor that appears true across our municipality is that in Keswick, our largest community of 12,000 people, there are the largest number of businesses open on Sunday. In Sutton we have a number that are open on Sunday, and in Pefferlaw almost all are closed.

The majority of Sunday workers in our municipality are students under the direction of store owners or senior managers.

This question of who works depends on who owns the store and the size of the store. Many of our businesses are family operations, and while we find the second generation running them, in other cases part-time staff are brought in. The Keswick IGA and A & P and Sutton Foodland bring in part-time staff under a few senior manager-owners. In the case of some drugstores, the shifts of pharmacists are just expanded to have some working Sunday shifts.

The majority of the Sunday workers are high school students or college and university students who get their hours on Friday night, Saturday and Sunday. Many of these employees find this is an excellent opportunity to return to their parents' home for the weekend, earn some money and then return to their colleges or universities Sunday night or Monday. There are as well a number of merchants who provide the sales force every day they are open. This means that one or other of the partners is at work on Sunday. Wages in our municipality are low. We have no major industrial manufacturing plants and even regular salaries at stores are below those of the municipalities to the south of our municipality.

Our municipality has social problems. I would not be able to think that these, in any way, can be directed to the effects of Sunday store openings. There is stress on business people who have to be open, but that market and your

personal beliefs are major factors which weigh on the decision, not that you have to be open because your competitors within the community are. There are no precise figures of family problems of business people.

Our community is still small enough that I know personally many owners of the businesses throughout our municipality. Many of the larger businesses that still serve our municipality have been around for generations and have been living with Sunday shopping for the past 14 years. We have a number of small boutique businesses that have opened and closed for a wide number of reasons. There is, to my knowledge, no great social breakdown by business people or the families that are and have been open for Sunday shopping during the past 14 years. The greatest complaint that I have from these business people is the amount of taxes they must pay and charge their customers, whether those are the taxes of the municipality or levied by the province or the federal government.

In our community, we have those who claim that the family is falling apart. Some of them urge council to provide more youth facilities. A place for youth to hang out is the number one request by both young people and their parents. You will notice this request is for a place for the young people, not their parents, to hang out, a place for young people to go to associate with others in their own age group.

During the past two years I have participated in the opening of three new church congregations in Georgina. The church attendance is lower than in previous generations, but we do not have any churches closed or even contemplating closing. As I have pointed out elsewhere, some business people are very involved and strong believers in their own churches and refuse to be open on Sunday.

We are a working example of what does happen over a period of time when Sunday shopping is in place. The community does not break down, social ills are not greatly compounded and businesses do not all have to be open to retain their share of the local business.

Our business community is fragile in that a great amount of residents' shopping occurs outside our municipality. A great number of residents work elsewhere and do some of their shopping there. The second major impact is the major malls which exist in Newmarket, some 10 to 15 minutes away from the majority of our residents. Our business people do successfully compete in service, price and quality; they have to. We have an 800,000-square-foot mall, with three major chains, in Newmarket, not to mention the variety of other stores in that community.

The existing legislation can be improved. I must admit that I have not attempted to review the entire piece of legislation being proposed. I am more interested in the general concepts of the legislation that business and tourist areas should be open. This has my full support.

The legislation can be modified to ensure that employers have limited ability to demand that employees at any level work on a common pause day. The legislation can be made to ensure that any employee working on a common pause day, be it Sunday or whatever, should be paid double time.

There should be no discrimination. It should be allowed in tourist areas such as ours that one be open or

another closed. That should not be by type of store or size of store. The communities of store owners must be recognized, not the individual store. In today's economy we need to leave the decision to those who pay the bills. The merchants themselves can and will make the decision because they must make a profit.

We have found no single line of reasoning that can describe what has occurred in our municipality to explain why some businesses are open and some are closed on Sunday, except that of the choice of the particular business person. We want that to be left to the business person to decide, and we want the decision to have tourist shopping left to the local municipality to decide.

I thank you for your time and interest in our true Sunday shopping experience.

Mr Sorbara: I want to say a word of welcome to Bob, the mayor of Georgina, one of the municipalities in York region.

I just want to say to my colleagues on this committee, while York region is generally seen by the public to be an area of dramatic growth, with thousands and thousands of new homes and new factories and new businesses and new shopping malls, the municipality of Georgina is one of those areas where the economy is far more fragile and where development has not occurred at the pace that it has occurred in other parts of York region and other parts of the GTA. The economy is one that really requires that provincial governments pay attention to the reality of what the people there are saying. I am delighted to hear the mayor make the submissions that he has.

I take it that you are not asking the provincial government and this committee to recommend that we take steps to make sure that the mall in Newmarket is closed on Sunday so that your businesses can have a bigger chunk of the market on Sunday. Is that the case?

Mr Johnston: Right. I want the local municipality to decide. Let Georgina decide what it wants within its boundaries, Newmarket decide, Aurora decide, Whitchurch, Stouffville. Let the community—because it is the local councils that are elected by the people within that community—decide.

Mr Sorbara: You already have the responsibility to set store hours under the Municipal Act. Is that not the case?

Mr Johnston: Yes, sir.

Mr Sorbara: Your one quarrel then with the existing legislation is that the upper-tier municipality has the authority to set Sunday hours and you think that should be at the local level.

Mr Johnston: My concern is that because of some of the pressures being put on some other municipalities that do not wish to open, they may feel that there can be no community that has a tourist-wide. We are within that thing saying, please leave it at the local municipality level.

Mr Sorbara: By the way, this example of Georgina is yet another example of what I mean when I say that Ontario becomes the playground of the rich on Sunday. Lots of stores can open in Georgina on Sunday because of the tourist designation, and those who have cottages up there or those who can afford to travel up there for the day get to

shop in those stores. Of course, the local people as well get to do that, but if you are living in downtown Toronto or downtown Kitchener or downtown Ontario and you do not have the ability to travel freely, then you are, in a sense, a second-class citizen.

Mr Chairman: that is the only question I have. I would like to put you on notice that when we finish with this witness I will be raising a point of order for consideration of the Chair and it should just take me about two or three minutes after this witness.

Mr Daigeler: Actually my question was similar to that. Has the regional municipality at the present time hindered you in your store openings?

Mr Johnston: No, it has not. Fortunately, the region's other mayors and regional councillors who sit have been very supportive of Georgina's position, but should it be put to them where they have to decide yes or no, that is what I am very concerned about: that eight other municipalities will decide what is going to happen in our municipality.

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Mr Carr: I want to welcome you here and thank you for the presentation and for the fine brochure. You certainly have a gorgeous area highlighted very nicely by this and we wish you all the best.

I take it then with the present legislation—and you have spoken obviously with some of the owners in your area as well as other councillors—you will be moving very quickly to designate your area “tourist” and you feel that probably you will get support for that.

Mr Johnston: Yes. Within the terms I have seen, we qualify under five of the six and we will be making that subsequent move. Our council had voted previously to re-affirm that position, and certainly once your legislation is ready we will be moving forward.

Mr Carr: Was there a great deal of debate? Was it a close vote or was it something overwhelming?

Mr Johnston: It was 9-0.

Mr Carr: Nine-nothing. I used to play a lot of hockey games 9-0. Unfortunately I was the guy who let in nine. Otherwise I would not be here. So with the situation as it is then, you obviously feel you have overwhelming support from the community.

Mr Johnston: Yes.

Mr Carr: Essentially this new legislation will make it such that your area will be open, so you really do not have too many problems with the legislation then.

Mr Johnston: No, I do not, sir.

Mr O'Connor: It is a pleasure to have one of my mayors here before me today. Welcome, Bob. It is a wonderful brochure showing everybody all the fine things that we do have up in the north part of my riding, which is terrific.

Just a couple of different questions, perhaps, to try to draw out some points. That tourist designation that has been set aside, I know I had met with one of the BIAs and the question came up at that point in time about the tourist designation. Do you feel that the criteria highlight all the necessary points, or do you think there should be anything added or deleted from them?

Mr Johnston: I think it covers a wide variety of the things that probably would look to tourism: We meet five out of six, so that leaves me some comfort.

Mr O'Connor: One other area of the legislation refers to an application asking for support by the chambers. When you have talked to the BIAs and the downtown business association, were they aware of that and are they comfortable with that?

Mr Johnston: Yes. Every time I have appeared before either the BIAs, the Georgina Board of Trade or the Keswick uptown businessmen, they have all spoken in support of it and the continuing on, basically because very few of the merchants feel they are pressured into being open. Most have made their decision one way or another already and do not see it that we need to have it totally closed or totally open.

Mr O'Connor: In those discussions, were there any problems relating to the employment standards aspect of this legislation in the protection for the workers? Did they highlight any problems with that at all?

Mr Johnston: There was no discussion in my presence about employees, basically because the legislation is not forward enough yet for them to be looking at it and considering it.

Mr O'Connor: I think, because of the area, the employees probably realize—

Mr Johnston: A lot of our employees—I guess to make the point even more succinct—are university and college kids who come home to their parents for the weekend and they get to work 16 hours in two days as opposed to working Monday to Thursday night. One of the things I wanted to make sure you knew is that a number of them find it much better to come home and work on Saturday and Sunday so they do not have to work Monday to Thursday night while trying to go to college and university.

Mr O'Connor: On the bill's aspect of upper-tier government, do you feel that could have a negative impact in Georgina or do you feel that York region realizes the importance of the tourism aspect of your municipality?

Mr Johnston: I am sure that York region as a whole understands the position of Georgina as a tourism commodity. My concern so much is that there are only two members out of Georgina on a 19-person council. That does not give us much towards a vote should we get into some hard knocks, and already our region has had some very long and difficult discussions of municipalities which do not want to be open, and we have neither the political might nor the right as the region.

Mr O'Connor: In that aspect then, because in the legislation the municipality has the final decision, do you think there should be an appeal process and could you perhaps give us a suggestion?

Mr Johnston: I think if you leave it with the local municipality, those are the people who are elected locally and they can make the decision.

Mr O'Connor: Good. Thanks, Bob. I appreciate that.

Mr Frankford: I think it is a very interesting presentation, and it is very nice to get a perspective that is not as Torontocentric as the ones we had this morning.

I was interested about the drugstores where I understand there are two that have a co-operative arrangement.

Mr Johnston: They have had it for years. One is in Jacksons Point; one is in Sutton. One would be open one Sunday and the other would be closed, and they would switch back and forth, despite the fact they represented two different chains and were for all other purposes very competitive, but they had this arrangement so that both would not be open.

Mr Frankford: So it really shows that they feel they need to provide a service, but they are not staying open to get every last buck.

Mr Johnston: Right, and I think that is the case of a lot of businesses. After the legislation was passed, there were a number that opened because they felt they had to be open because everybody else was open, but after three months, even with that legislation, a lot of them went back to the way they had been before.

Mr Frankford: Is it just these two pharmacies we are talking about, or are you aware of any broader arrangements?

Mr Johnston: Those are the two pharmacies I am most aware of.

Mr Frankford: It would be interesting to know how widespread that sort of thing is in the province.

The Chair: Mr Sorbara, does your question involve the witness?

Mr Sorbara: No, it does not. I was just waiting until Mayor Johnston was finished.

The Chair: Thank you very much, Mayor Johnston for a very interesting presentation.

Mr Sorbara: I just bring up this point of order because I think as we begin these public hearings we are taking an unusual course, if not a course that is without precedent in the province of Ontario. We are hearing submissions on a bill that is under the auspices of the Solicitor General and the Ministry of the Solicitor General. My understanding is that it is at least parliamentary tradition in Ontario that the committee be attended by either a minister or a parliamentary assistant from one or more of the ministries that are involved. Here we have a bill—

The Chair: Mr Mills is here.

Mr Sorbara: I will just complete my remarks here. We have a bill involving three ministries: the Ministry of the Solicitor General, the Ministry of Tourism and Recreation and the Ministry of Labour. Generally the custom in these sorts of things is that if a parliamentary assistant is going to participate in the hearings and in the committee consideration, he absents himself as a member of the committee and joins you, sir, at your left hand, and someone else substitutes for that committee member.

As I look around the room, I do not see any of the three ministers. I am surprised that they are not interested in the bill. I do not see any of the parliamentary assistants, save and except for Mr Mills, who is not sitting here as the

parliamentary assistant defending the bill and answering specific questions.

I do see some officials from the ministry, and that is in keeping with tradition, but I would expect that we would have, for a bill that is so controversial, some political representation here in the room monitoring these hearings and participating in the hearings in a way that has become the custom in the province. I would ask you, sir, if you would inquire of the ministers or their parliamentary assistants whether they are going to continue to make themselves scarce during these public hearings.

Mr Mills: I wonder if I might—

The Chair: On that point of order?

Mr Mills: Yes, on a point of order, Mr Chairman, if I might respond. As you probably are aware, many committees sit at this time. We are very stretched out in numbers and it is not possible to have a parliamentary assistant from Tourism and Recreation and from Labour here, together with me. It is not possible at the present time to get a replacement even for me, and that is why I am sitting here and not there. I realize that on Bill 17 Mr Wessinger sat there, but we just do not have the luxury of personnel. Some people are still away on holiday.

1400

Mr Sorbara: If I could just comment further, it is the government which organized the committee schedule for this week. The government, and certainly the government House leader, certainly knows the tradition that these bills are carried before committees with the assistance and presence of either the minister or the parliamentary assistant. We have people taking time out of their holidays and coming here and making presentations before this committee. We have asked people to make submissions; we have advertised all over the province. The fact that some NDP members are still on holidays should not be the excuse. We should have at least one parliamentary assistant participating as the political spokesperson of the government for these committees, and if that has to be Mr Mills and if the government members on the committee have to be reduced by one, so be it.

I see six members over there. The tradition of parliamentary assistant or minister carrying the bill on behalf of the government is well established here in this place in our committee work and should not be abandoned now simply because some people are on holidays.

Interjection: Mr Chair, I do not—

Mr Sorbara: Just let me finish. This is the final time I am going to make the point.

The Chair: Mr Sorbara.

Mr Sorbara: I do not want to interrupt the hearings. People have taken their time—I see Mr Magder in the room, and I want to get on with the hearings, but I also would like the Chair to send an urgent message to the three ministers that they should be here for their bill or their parliamentary assistants should be here to represent the government on the bill. In the absence of that, the message to the province is that the government, notwithstanding that it is having these hearings, does not give a whit about what the public has to say about the Sunday shopping bill.

Mr Fletcher: On the same point of order, Mr Chair: Mr Sorbara has made a few comments that the ministers do not care. That is not true; they do care.

Mr Sorbara: Well, where are they?

Mr Fletcher: They were here yesterday, and I know Mr Sorbara had to leave early yesterday, even though there were other witnesses here he did not hear, so obviously you do not have much faith in this and you do not care that much about it yourself.

Mr Sorbara: If you want to make a political point out of this, go ahead. I am just bringing up a point of order.

Mr Fletcher: As far as the New Democrats being on holiday, that is not a fact either, Mr Chair. We are strapped for people, but that is not because people are on holidays.

As far as the parliamentary assistant being here is concerned, the parliamentary assistant is sitting at the table participating in this. It does not matter where the people sit, they are here, they are listening and they are participating and they can carry back any message. A person sitting up front cannot hear any better than a person sitting here.

The Chair: Thank you, Mr Fletcher. Mr Sorbara?

Mr Sorbara: I would just say to Mr Fletcher that when a parliamentary assistant—

The Chair: Mr Sorbara, please.

Mr Sorbara: —he does not question the witnesses.

Interjection.

Mr Sorbara: I am just explaining a tradition to you, my friend.

The Chair: We have had the experience in the past while we were hearing on Bill 17 that Mr Wessinger, I believe, at that point sat with the other government members until such time as we got into clause-by-clause. Where Mr Mills sits is entirely his prerogative, but the issue you bring up is several-fold. There is the question of where Mr Mills sits and the question of participation of parliamentary assistants or political participation from the other two ministries involved. If you would like to put that request in the form of a motion, we could certainly debate that and decide upon it.

Mr Sorbara: I move that the Chair of the committee urgently request of the Minister of Tourism and Recreation, the Minister of Labour and the Solicitor General to either attend at the hearings or direct that one or more of their parliamentary assistants attend at the hearings—

The Chair: Thank you. Discussion on that motion?

Mrs Haslam: Mr Chair, on a point of order.

Mr Sorbara: Let me just finish the motion—on behalf of the government. I just point out that Mr Mills, sitting on the committee, is not here as a parliamentary assistant on behalf of the government.

Mrs Haslam: Is that part of the motion?

The Chair: Mr Carr, I am sorry. You were trying to raise a point of order, Mr Mills. Were you wanting to pursue that or can Mr Carr speak?

Mr Mills: I would just like to point out that although the Minister of Tourism and Recreation and the Minister of Labour are involved, as is the Solicitor General, I think it

is a fair statement that the bill belongs to the Solicitor General.

Mr Sorbara: Sure; that is right.

Mr Mills: I do not really see that the presence of a parliamentary assistant from those two ministries is necessary.

The Chair: Mr Mills, that is not a point of order, that is a question of debate about the motion. Mr Carr?

Mr Carr: I just want to say very briefly that it may be a bit of an oversight that some of the parliamentary assistants were not there. There are short numbers and maybe it was not thought of, so I do not think there was any intent. Because it was the Solicitor General's bill, obviously the government probably knew he should be there.

I do not think it was anything where it was intentional, but in light of the fact that it does have so much of an impact on tourism and so many of the representatives who have come before us are from tourism, I think it would be worth while just asking to see if the parliamentary assistants of Tourism and Recreation and Labour can make it. It may be the case that they are preoccupied with other bills. There may be Labour bills going on in the standing committee on resources development where they are shepherding them through and I am not aware of that.

The other thing I would suggest is that somehow, and I am sure the members of the government in the committee will impress it upon them, hopefully there would be some type of mechanism so that we can impress upon the parliamentary assistants who may be tied up on other bills exactly what has happened. It may be just a case of this committee informing them when a particular group does come in. Maybe it is possible for parliamentary assistants to come in when we are in Toronto when there is a group that might be affecting them.

I will support the motion. Hopefully there will be an opportunity to come and sit in, and if not, if they are in for other reasons, at least we will know that.

The Chair: Mr Sorbara and Mr Carr have already spoken to the motion. Mr Mills did as well on a point of order. I recognize Mr O'Connor and Mrs Haslam. I am wondering if it is possible for us to limit this discussion to some degree, because we do have witnesses waiting for us. Mr O'Connor first.

Mr O'Connor: I would just add that I find that this committee, because we do not have a parliamentary assistant here sitting to your left and in fact he is a member of the committee, is refreshing, because we have a committee that is open to changes. They are not defending the legislation but are therefore open to changes. For the witnesses who do come here to find that this government is open to change and not necessarily defending what we are trying to say I find very refreshing. I am glad Mr Sorbara brought that to light. And for the members who were here and continue to stay here for the majority of the day, I think these witnesses appreciate that as well.

The Chair: Mrs Haslam and then Mr Sorbara, and hopefully we can wrap up this discussion.

Mrs Haslam: I agree with Mr Carr, but for the same reasons Mr Carr has given, I will not be supporting the

motion. I think the wording is not what I would like to see in this particular motion. I have no problem with making our ideas or our suggestions known to the ministry, but I will not do it in this manner and in this wording.

Mr Sorbara: I would have hoped that the members of the committee would have joined me in supporting the motion so we could get the matter dealt with. The great irony is that we do have the parliamentary assistant to the Solicitor General here and he could participate in another context, and I do not see why the government—I see the presence of the chief government whip in the room. I do not know why you or anyone would find that offensive.

We are beginning a province-wide tour and the tradition has been that a parliamentary assistant represents the government, with all due respect to my friend the member for Durham-York, because it is a government bill before the committee. That is not a bad tradition. It is a good, healthy tradition. The parliamentary assistant is then able to speak to issues that arise about the bill on behalf of the government and help the committee in its deliberations. So I would once again ask for your support. We can get this matter dealt with quickly and then we can get on with our business.

The Chair: All in favour of Mr Sorbara's motion? Opposed? The motion is defeated.

1410

PAUL MAGDER

The Chair: I would like now to call up Mr Magder of Paul Magder Furs. Mr Magder, I believe we have half an hour, and you can please sit down wherever you wish, sir. You can use that time however you wish. Typically, people divide it in half, half of the time for your presentation and half for questions from all of the committee members. Please feel free to start when you are comfortable, sir.

Mr Magder: Thank you for having me on such short notice. I appreciate that. Believe it or not, I have been involved with this particular issue for probably 12 years.

Mr Poirier: I believe it.

Mr Magder: I mean, some of these people may have been teenagers at that point; I do not know. The only nice thing is that everybody keeps getting younger as time goes on.

However, my personal position on this law is that it is wrong. There is so much wrong about it, and unfortunately I believe the present government is taking a bad law and making it worse.

I believe Sunday is special to a lot of people, whether on religious grounds or not religious grounds. However, I do not feel the government has a right to tell you when to work and not to work.

I think there is need for a law. I think government should make a law. I will give you an example, Dufferin Mall. I was discussing this issue years ago with this small businessman. He said: "I don't want to work Sunday. I have to be open till 10 o'clock every night, including Saturday, because my landlord"—I think one of the big stores is in the mall, I forget which, K Mart or whatever—"says those are the rules. The big store wanted it that way, so all the little

stores have to go along." I think this is despicable, because just as much as I feel you have a right to work Sunday—I feel I have that right and everybody has a right—you should have the right not to work.

It is funny. All governments, including this present government, seem to be overlooking this issue. I think one of the most serious problems is the malls, where storekeepers are forced to stay open who do not want to be open Sunday. I think if they want to regulate hours, 9 to 6 five days a week or six days a week or whatever, they have some kind of semblance of being open, but I think this is where the government's direction should be.

Their direction is correct as far as protecting people from being forced to work is concerned. Of course you should not be forced to work, but I cannot see why they cannot do—I believe in the restaurant industry they have a choice of picking any day and I think this might be the approach.

I think there should be a law. In Massachusetts, with the blessing of the churches and the unions, they have made a law which most people seem to be happy with. No law is going to make everybody happy, but imagine when you have the church and the unions agreeing with it. I cannot see why we cannot take this approach. In Massachusetts, you must pay time and a half wages on Sunday, which I do in my particular case. I think everybody should be paid time and a half, because Sunday is special. If you want to make it a little more costly to do business, that is fine. If the business is there, everybody is happy in the end anyway. Also, merchants I believe are protected from being forced to open on Sunday, and of course workers are protected from being forced to work.

We would probably wind up with the same result in Ontario if we had a similar law. Not everybody is open. We seem to have a funny idea in Canada. If you allow stores to open, everybody has to be open. This is nonsense. There is no way in the world I will work Saturday evening, and yet in the United States a lot of stores do open in the evening. I do not want to work Saturday evening. I choose not to. I enjoy working Sunday, because my customers seem to be happy on Sunday, especially tourists.

In fact, I was in Rochester last week, and it was interesting. I was shopping, and I could begin to see the problem. It is nice when you are on a holiday to go shopping and spend a little time, because today shopping is difficult. There is so much to choose from and you are trying to make the right decision. When you are on a vacation is a good time. To go shopping at night I think is absurd.

Two years ago, when I had the injunction placed against me by the city council—which I won, but of course then they got the Attorney General after me and of course I could not fight that; I was ordered to close or else—personally, I suggested, "Well, close Chinatown." I happen to be in Chinatown, in case anybody is not aware. Howard Moscoe did not know I was in Chinatown, but I am in Chinatown geographically and in court evidence and everything else. I am in Chinatown, but in my particular store I sell clothing.

It is funny. This law says I can sell tobacco products that kill people, that is fine, but do not sell clothing. For

the life of me, I cannot see why the government has not done something about—we all know tobacco kills, whether you smoke or not. I know it nearly killed me years ago. I do not think I would be around if I had not quit, because I could not breathe so well. Fortunately, I quit. However, it just shows you how absurd this law is.

I ramble and ramble. I think we need a law that protects workers and protects merchants from being forced to open, but we do not need a law that stops people from working or businessmen who are trying to make a living. I have a family also. My children work for me. I am in a tourist area. You know, I am trying to make a living just like anybody else. The present law is wrong.

There is one point here. There are maybe 50 people in this room. The irony is that the government calls it a common day of rest. It is funny, common law and everything else. This particular law probably does not affect any more people than maybe me and one or two other people here, because any parliamentarians—you are allowed to work Sunday, and you do. You electioneer on Sunday. In fact, I had a writer who says how many times he works Sundays preparing speeches for parliamentarians. He thought how ridiculous this thing is.

In case you people are interested, I have many people who work for the present government, the previous government, who buy coats from me because they feel I am right. They do not like the government telling them when to shop or work. In fact, even in the NDP office, believe it or not, people come down and buy coats from me—

Mr Poirier: Not on Sunday.

Mr Magder: On a Sunday or during the week, because it is a like a free choice issue. Now this is my position. We need a law, but at least bring a fair law. Do not bring a law that picks out only retailers. For instance, why are people in the duty-free shops forced to work Sunday? I have checked this out by the way, and they do not get time and a half. People say, "Well, the airports are federal property." Nonsense. It is in Ontario. I mean, you charge provincial taxes there. You do not relieve them of provincial taxes. So I think this is a bunch of garbage.

So I could go on and on and on about this. I think the government should stop charging anybody under this law now. The law is a mess. You have got a law that is created on behalf of special interest groups. You do not outlaw drunk driving because of special interest groups. You outlaw it because it is wrong. The law picks and chooses. It says you can be on one side of the street or you cannot be on the other. You are a tourist area. You are not. People come to Toronto. They do not come to Chinatown or Harbourfront. They come to Toronto, and then they do whatever they want to do. Why not let the marketplace decide?

Ten years ago, I approached Larry Grossman on this issue as pertaining to the tourist problem. I pointed out that we are suffering. The tourists would like to come to Toronto and do their shopping. He said, "Well, you know, we really sympathize with you, but we have the NDP pulling the strings here," and this and that. "Wait till we get in and we'll do what we can."

Mr Sorbara: You think it was bad then?

Mr Magder: Yes. Well, I thought it was bad, but it is worse now. It seems, instead of getting better, the Liberals took a law and made it a little worse, and the NDP are making it even worse, pardon my English, but worse anyway.

Mr Poirier: Worstest.

Mr Magder: The worstest, yes, unless something happens. The thing is, sure, ideally it would be nice to take off Sunday, but the thing is, we are living in the real world today with automation and computers and everything else. There is so much free time around. People love to travel, and a lot of Americans do like Canada, in spite of our high prices, and our prices are not high on everything. Of course, a lot of the blame is on the other level of government, why we have a tourist problem. But why not—you know, when we had Sunday shopping for a while, I started to see a lot more Americans coming into my store, and then all of a sudden—you come down Spadina Avenue. It is frightening. Saturday and Sunday, it is almost dead now. They have scared away most of the tourists, because between the GST and not being able to shop on Sunday—if we allowed Sunday shopping, there would be a little more competition. It helps keep prices down.

You know, you cannot protect everybody. This is the way the real world is. If a businessman gives good service, good attention—in fact, this is one reason people are also running to Buffalo. They say they get more courteous treatment. That has nothing to do with this particular meeting, but this is interesting, because on Sunday, you know, people have more time, they are more relaxed. I would say that the government's position, I feel they should stop charging anybody or everybody, and allow businesses to do business to survive, because we are in a terrible economic situation now. I mean, if you do not see it—

I was talking to the tax man the other day. He is fining me for being late with my taxes. I told him there is a recession on. You know, he does not know what is going on? You read every day, more business people going broke, and we employ people. Now we are not employing people. We are laying off everybody. That is sad. If you want to make a law, make a law, but make a sensible law, make a fair law. Do not make a stupid law. This law, as I said before, is a bad law being made worse. Now, if anybody would like to ask me any questions or make some comments, please do.

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Mr Sorbara: Mr Magder, this is not confession period, but I should probably say to you that our government has sledged you just as much as any government in your attempts to maintain a Sunday marketplace. Do you mind telling the committee approximately how much money you have spent on lawyers and studies and court challenges and fines and your dance with the police on the issue of whether or not you could sell a fur coat on Sunday?

Mr Magder: That is a good point because this is another terrible thing about this law, how it harasses people. I have paid out \$400,000. I presently owe my lawyer \$150,000. I have not been making any payments to him for the last year. He continues to take the case and will work

for me. In fact, he tells me to buy lottery tickets because hopefully that is the only way he will ever get paid.

What hurts me is I am just trying to make a living. I am a Canadian. I was born in this country and we were brainwashed with this Protestant ethic. You work hard, you will succeed. It was an honour to work. Now you say work is a four-letter dirty word. It is unbelievable. It does not make sense. No wonder our kids are all mixed up. You teach them to compete, you teach them to do this, you teach them to do that, then as soon as they grow up the whole world changes, everything changes. It is absurd. I possibly will be going all the way back to the Supreme Court of Canada again. The Supreme Court of Canada already ruled that the law discriminates.

There is another interesting point. How much, not only Paul Magder's legal costs—do you know how much it has cost the government? Probably millions of dollars, let alone thousands.

Mr Sorbara: In that \$550,000 that you are liable for all together, I know, because I have followed the cases, that you have undertaken, you have financed a number of studies about Sunday shopping, polling and social research, etc. Have you come up with any research that indicates that the quality of family life or the quality of life in a society deteriorates significantly when people are allowed to shop and storekeepers are allowed to open their stores on Sunday in any jurisdiction in the world?

Mr Magder: Not that I know of. In fact, it is funny, the New Democratic Party points out that Sweden is a good socialist example. They happen to have Sunday shopping in Sweden. Of course, they do not seem to see that. It does not seem to have ruined the world there. In Alberta they have Sunday shopping. They did not come out with new laws to close up everything after the Supreme Court of Canada ruled that the Lord's Day Act was unconstitutional.

I think this is a myth. It is almost like religion. You go back and in every religion they had ideals. In the Jewish religion, for instance, you are not supposed to eat pork so it was incorporated into the religion. I do not know, I am not that up on it, but maybe 2,000 years ago it made a lot of sense. When Sunday laws came out 100 years ago, it probably made a lot of sense because kids were working seven days a week and everything else, but the world has changed—and maybe even back in the 1950s, at least you did not have a problem of unemployment. Everybody was working, Ontario was the greatest place in the world to be and they were bringing in 200,000 immigrants a year in those days.

But things have changed. Look at our unemployment rate now. People are dying to work. They want to work. I have a girl working for me and she used to work steady, she works Sunday now. She never used to want to work Sunday, but boy, she is broke and she needs the money and she wants to pay her bills.

Mr Poirier: So do you.

Mr Magder: So what is wrong?

Mr Sorbara: If you were allowed to open up your own store at will on Sunday, how much more employment

would Paul Magder produce? Is it one or two or three jobs? How many people do you employ on Sunday?

Mr Magder: I think, if we had Sunday shopping in general—it is not just Paul Magder because I am open regardless, whether it is legal or not—you would create many thousands and thousands of jobs, part-time and full-time. It is a crime how the government—why pay people to go on welfare when they really want to work, because most people really like to work? Why not allow people to work? It does not make sense. This business of a common day, fine, you have made legislation better than the Conservatives and better than the past Liberal government to protect workers. Fine, but the trouble is, the Sunday laws punish the innocent, not the guilty.

I have always said this. If a driver is drunk and kills a pedestrian or has an accident, you do not outlaw driving cars. You punish that particular person. The trouble with the Retail Business Holidays Act is it punishes so many innocent people. I can show you where, believe it or not, the way it stands now, for instance, would they allow the municipalities to declare tourist areas? This is absurd. When Toronto declared Harbourfront a tourist area, the boss said the next day, "Okay, Mary, you've got to work Sunday." "I don't want to work Sunday." "You have to work Sunday because we're a tourist area." They did not make provisions to protect her from being forced to work. She said, "Will I get time and a half?" "No, you're going to take off a different day. You're going to take off Tuesday."

This is so absurd, a law that is supposed to protect people actually causes the exact effect that it is supposed to prevent. It does not make sense. I just wish this new government—I was hoping if we had a new government, maybe there would be a breath of fresh air.

Mr Sorbara: Stale air.

Mr Magder: The people voted against David Peterson. They voted against the Liberal government because they were fed up—federal politics too—with politicians who do not see the real world. Here the government said we were doing great, the boom province. In the meantime, we are going to hell fast. But the thing is, that was not a mandate to close up the stores on Sunday. In fact, you were talking about polls. All the latest polls say people want Sunday shopping, whether you agree with it or not. The people want it. For the life of me, I cannot understand why the government is bringing out a law that is against the will of the people, especially a people's party. The New Democratic Party is supposed to be more of a people's party, to the best of my knowledge, than any party. I wish they would act it.

Mr Carr: Thank you very much for taking the time. It seems you have been doing this for 12 years, so I guess you have taken a lot of time to do this, but I certainly appreciate hearing from you. I have heard a lot about you and seen you on TV.

Mr Magder: I wish it were all over, believe me.

Mr Carr: Yes, you are famous. One of the questions I have got is with this new legislation. There are some people saying that with the tourism exemption—I know your particular area was excluded the last time around. When I

spoke to a couple of people they said the municipality, for whatever reason, found something that just did not click so they did not give the tourism exemption.

This one is much broader, where basically your area would be included and you could say virtually any part of the province could with the guidelines that are outlined. As a result of that, do you see your area being open when it goes before the municipalities? With it being as broad as it is, do you foresee your area getting an okay to open as a tourist exemption area?

Mr Magder: I see it for other strange reasons. Because of the oriental people there, they seem to do whatever they want. It is a very powerful group of people. But whether they will allow me to be open or not—in fact, when they wrote the Toronto bylaw for Chinatown West, in effect they wrote it for most of the Chinese merchants who were there at the time. Possibly, if there had been some furriers or clothing stores, maybe I would not be here, would not have this problem.

But I think this whole thing is nonsense. Toronto is a tourist area. Canada is a tourist area. We want tourists and picking and choosing—let the merchants work things out. If you force people to pay time and a half wages, make it a little more costly to do business, reward the people who wish to work on Sunday, I think the thing would work itself out pretty well, because where there are a lot of tourists, people are making money, they are going to open. But people are not going to open their businesses—I think in the suburbs, I cannot see why all these stores should be open. I think they would be losing money in most cases. But then again, I do not know. I know my business and I really have no right to tell them how to run their businesses.

Mr Carr: With these new guidelines, your neighbours and so on, do you feel your area will be pushing for tourism? It will not just be yourself? Now will you have a lot of support?

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Mr Magder: We have a funny situation. We have so many different—we talk about this multiculturalism. I think it is a wonderful thing to keep everybody divided, really great, because it works perfectly. We have so many different nationalities and types in our area and besides, most businessmen are always jealous of each other and we do not work together. Seldom work together and some do not want to be open, some do want to be open. As I said before, I think you have taken a bad law and made it worse.

One thing I would like to say: This law, if it continues the way it is, will be thrown out eventually by the courts. Why waste all this money and time and bother? You have the opportunity to come out with a sensible law at least, because if you do not come out with a sensible law there will be no law, and that is worse. I think we all agree, it is not right to force people to work on Sunday. I feel they should be paid time and a half. You make it a little special, especially people who are getting \$4 an hour or so, you pay them \$6 an hour. I pay a lot higher than that, but so what? You are not talking about people who are making \$20, \$30 an hour or something getting time and a half, so everybody will win in the end anyway. But if you do not

come out with a sensible law, you will eventually have it thrown out of court.

I will just show you how absurd this is. It probably violates the British North America Act. I will tell you why. There are supposed to be no tariffs or duties between provinces. Here you have Alberta Sunday shopping, British Columbia Sunday shopping, no Sunday shopping in Ontario. In Quebec, they handle it a little differently; now I think four people can work in a store or something like that.

The law is not a common law; it is nonsense. I drive by the domed stadium every Sunday to work. Why can you go to the domed stadium and work? You could play baseball or do anything you want but you cannot work in your own store. It does not make sense. It is not fair law.

Mr Mills: It is my privilege to thank you for coming, Mr Magder. I represent that breath of fresh air—well, one of the rays of fresh air that you spoke about in the new government—and we are certainly here to listen to everyone like yourself who has something to say. I remind you again, as I like to remind most of the people here, that this legislation is draft legislation and we are here to listen. However, we are committed to the common pause day. I happen to feel very strongly about family life and about letting families spend one day together. I have some grave apprehensions that if we did not have this in place, family life to me is so important and it would suffer.

Mr Magder: Well—

Mr Mills: Just one moment.

Mr Magder: Okay.

Mr Mills: I heard you make an interesting comment. You said, "Saturday night to me is a special night and I won't work on Saturday night." I wonder if you could tell me why Saturday night is special to you and why you will not work.

Mr Magder: Okay. I will not work because I am tired. It is the end of the week. I have had enough of business and fighting the creditors and the government and everybody else. I do not want to work Saturday night, I want to go out and enjoy myself or relax or whatever. It is funny—I would like to elaborate. My lawyer, when I lost—I have won and lost, you know. I actually won every time but then lost eventually—suggested I open up every night. Funnily enough, my staff do not want to work in the evenings, I do not want to work in the evenings and my customers do not like coming downtown at night. But Sunday I have no problem getting people to work; short day, everybody is happy.

Talking about family life, I wish you would come in my store when it is a little busier, maybe when the recession is over, and see. I feel so good on a Sunday. People go to church. Funnily enough, more people will go to church if you have Sunday shopping because they would go to church then go shopping and do whatever they want to do. But now they have not got time. They are driving to Buffalo and they are waiting at the bridge for the customs and they have no time to go to church. That is what I was trying to say.

But it is so nice. You get the younger middle-age or younger couple in and they are with their mother and their

grandmother and a lot of elderly people. The only time the children can take them out is on a Sunday because they have busy lives, they are trying to make a living and working, and it is so nice. Funny enough, Sunday shopping will even help the family; it could help the family. If you want by law to protect them from being forced to work, fine. I have nothing against that, I think that is proper. But do not punish the innocent. That is the trouble with this particular approach. It is punishing. I have to make a living. I like my business; I like my work. At 55 years old, what am I going to do, start a new one? I have got computers but I do not use them. I was born the wrong time I guess. My kids are great at it.

Mr Mills: You never did tell me why you do not like working on Saturday night.

Mr Magder: No, because I am just dead beat by Saturday.

Mr Mills: There are a lot of folks who are dead beat on Sunday who do not want to work either.

Mr Magder: Fine, so do not work. If they do not want to work, fine.

Mr Mills: But we have to have some legislation to protect them because all the folks out there are not like you.

Mr Magder: I would agree with you 100% if you closed everybody and everything up. Be honest and be fair, but do not pick and choose certain stores, tobacco stores. Can you tell me why tobacco stores are allowed to open on Sunday, specified under the law? Does it make sense to you? Because, my friend, it does not make any sense to me. We all know tobacco kills. Not only does it kill, probably half the cost of our medicare system is because of tobacco products. Does it make sense to you, my friend?

Interjections.

Mr Magder: I guess they are worried about the tobacco companies or something. I do not understand it, it does not make sense to me.

Mr Mills: The difference is that we are looking—

The Chair: Mr Mills, we have run out of time.

Mr Mills: Oh, I am sorry. I beg your pardon.

The Chair: Thank you very much, Mr Magder.

Interjection.

The Chair: It is not fair at all, is it? Mr Daigeler.

Mr Daigeler: Just before the next person comes, are we finished with Mr Magder?

The Chair: Yes, we are. Thank you very much, Mr Magder.

Mr Magder: Is that it? Okay. Thank you for having me.

Mr Daigeler: I have a question, Mr Chairman, about how you wish to structure the presentations. We normally have half an hour. I have noticed you are extensively going over the half-hour and that way we are ending up rather late. Are you planning to do that and therefore we are extending the meetings?

The Chair: In fact, the last presentation was somewhat less than half an hour, and I beg people's indulgence because I ended up having to cut short the time for questions

because of that. We started that last presentation some 10 or 12 minutes late because of the discussion about PAs, and this morning every presentation was within half an hour. They did not go over by more than a minute or so. The reason we were late was because, again, of other discussions. It is certainly not my intent for us to go past time.

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GRAFTON GROUP LTD

The Chair: We now have a presentation from the Grafton Group, I believe Ms Bonnie Shore. You were here for part of the last presentation. Typically, presenters divide their time, the half-hour, between their presentation and also the opportunity of committee members to ask some questions, which I am sure people will be eager to do. Please proceed when you are comfortable.

Ms Shore: I cannot promise I will entertain you to the same level as the last speaker. However, I hope I will at least keep your attention.

My name is Bonnie Shore. I am the director of marketing of Grafton-Fraser. I am here today to represent Grafton Group. I would like to start the presentation by giving you some what I will call business information.

Grafton Group Ltd is a public holding company. We are listed on the Toronto Stock Exchange. Grafton Group Ltd has been active in the retail industry since 1853. Today, Grafton Group's principal business is retailing both apparel and footwear in Canada.

Grafton Group carries on its retailing business through two main operating divisions in Canada: the Canadian apparel through Grafton-Fraser Inc, and the Canadian footwear through Maher Inc.

Grafton Group Ltd has a total of 4,750 employees of which 2,167 employees are in Ontario. Grafton Group has 686 stores across Canada. We are located in every major city, and in Ontario we have 447 stores. The sales of Grafton Group in our Canadian stores in 1990 was \$413 million; \$200 million of that total was generated in Ontario.

Recent capital investment in Grafton Group companies over the past two years was in excess of \$10 million in stores and an additional \$5 million for a new head office that we built for our Maher division, so our total investment far surpasses \$15 million over the last few years.

If you will make reference to page 2, I have tried to summarize and simplify all the elements of our business, so you will see all the chains, what our position is, the customer income and the target age. In essence, we could say we cover a very wide scope of the market and we are a very dominant retailer in the Canadian marketplace.

Now let's talk about the impact of this legislation on Grafton Group and, I will say, to some extent almost all other retailers in this province. Grafton Group's loss of revenue attributed to the restriction on Sunday shopping is as follows: In apparel it would be \$4.5 million and in footwear \$2.6 million, so the total is \$7.6 million of lost revenue because we cannot open on Sundays.

I would like to preface the statistics by saying the figures are basically derived from our annual reports coupled with data we have collected over the period that Sunday shopping was permitted. We have pulled that out to give you a per-

annum figure so that it is more effective for us to discuss it as it will affect our organization.

We think, with GST and consumer anxiety over the mounting deficit, sales are expected to be down between 10% and 15% in 1991.

Let's talk about lost tax dollars. In Ontario, per annum, from Grafton Group retail stores, we will not be able to collect a provincial tax, the 8% tax, which will give you a loss of \$608,000, and in terms of the GST, the 7%, \$532,000, giving us a total of \$1.14 million not collected because we cannot be open on Sunday.

Grafton Group's lost wages to employees in Ontario per annum would be \$1.25 million. The decreased number of employees at Grafton Group due to the Sunday shopping restrictions would actually equate 100 people. We are saying there will be 100 less jobs and there will be over \$1 million less received by employees because we cannot open on Sunday. These extra jobs would definitely be filled if Sunday shopping went into effect, as statistically shown by the period we were open during Sunday shopping. We had to hire more; our wages went up.

Due to tourism and the convenience of Sunday shopping, the above losses are not recoverable during the rest of the week.

Sunday shopping restrictions in conjunction with other significant factors detrimental to the Canadian retailer, such as GST, increasing cross-border shopping and high levels of anxiety due to lack of confidence, are resulting in the rapid demise of the Canadian retailer.

Not only are Canadian retailers unable to compete due to higher taxes and wages than our US counterparts, but Canadian retailers are also hampered by the inability to offer the convenience of a seven-day shopping period. Hence, we see the constant and growing migration of customers to retailers based in the US.

Significant retail business is flowing out of our border towns. Our statistics are showing that our border towns are suffering to the tune of 20% decrease in sales as compared to only a 10% decrease in the rest of our markets.

While this amended legislation is intended to protect employees and their families, the consequences of this legislation will be detrimental to those same employees as it will increase unemployment in the retail sector and decrease the likelihood of any retail capital expenditures. We will not be building new stores; therefore, no new jobs. Not only no new jobs in retail, but no jobs in construction to build our stores, no jobs in the supplies necessary to carry on business or the merchandise manufacturing to stock our stores and the administration to carry on our business.

The fact is, we will be forced to focus on what we already own, and we will have to try to cut expenses, mostly wages, as much as possible. If we cannot make money, then the reality is we will not be able to invest any money.

We know that the objective of this legislation is to protect employees and their families. However, the summary of the results from a retailer perspective, if I can recap, are as follows:

There will be fewer jobs available, especially for part-time workers. Those are most often working women and students.

There will be increased layoffs. There will be no need for extra staff as we will not be open on Sunday. There will be less overall revenue and business; therefore, less staff will be needed.

We look at wages. There will be less wages paid. The overall wages earned will decrease because we are not going to be open on Sunday. Business has decreased, we are less competitive to the US and therefore retailers look first to tighten the wage dollar budget.

Taxes: less taxes collected. For GST and provincial taxes, there will not be any collection on Sunday. There will be a lower income tax due to less employment and a dramatic reduction of corporate tax, if any. At one point we may have said that would have been wonderful, but the implications are that we are not making any money.

There will be less flexibility available for workers and employees. In many instances, employees could better manage their family life and gain a new level of flexibility including Sundays, therefore having seven days to juggle the needed work hours to make a living.

As well, retailers are not flexible in offering what I will call a multi-day rest day, or two days off back to back, that is often needed in a stressful industry like retail.

There will be an increased overall number of bankruptcies in the retail sectors, as well as, I think you will see, more and more store closings.

It is not one of the above factors that will devastate the retail industry and severely hurt the province, but it is the snowballing effect that will catch the province off guard. We recommend that the factors and subfactors listed in the above will have a crippling effect on the province and will make it impossible for the survival of retailers.

We support the proposition that all employees have a reasonable rest period in the work week, that no employee should be forced to work on holidays or Sundays, and that the sanctions should exist to help ensure that no employee is forced to work Sundays or holidays.

However, we believe that these objectives can be met without forcing both retailers and employees to shut down on Sundays. We recommend that employees and employers be permitted to agree to any work schedule that is to their mutual advantage, providing no coercion is involved. Legislation, therefore, should provide safeguards to protect employees and yet also provide sufficient flexibility to permit those same employees the freedom to work on Sunday if they wish—I would like to really focus on that one line: the freedom to work on Sundays if they wish—and allow retailers to maintain a level of competitiveness that is absolutely necessary for survival.

The final page is a quick summation of the figures, so we will see exactly what is going to happen in this province as it relates to our organization: loss in revenues, \$7.6 million; loss in taxes, \$1.1 million; loss in wages, \$1.25 million, and most important, a decreased level of employment to the tune of 100 employees.

Please feel free to ask any questions.

Mr Sorbara: Ms Shore, let me begin by congratulating you on your presentation. I think it was an articulate statement of the kind of competitive pressures that your organization, and virtually everyone else in the retailing

business, is facing. Indeed, the world out there is changing dramatically as far as retailing is concerned, and the competitive pressures that retailers are facing are coming from very far away, given electronic shopping, given greater mobility, and given the competition that areas like Buffalo, Detroit, and Sault Ste Marie, Michigan, as well as other places, are launching towards the Ontario consumer.

I just want to tell you that we agree with that part of your submission where you express your support for reasonable protection for workers in respect of Sunday work. In fact, we believe the law that is currently in place provides workers exactly the right level of protection—that is, they can refuse unreasonable assignments of Sunday work. The law provides a mechanism to arbitrate when there is a difference of opinion and encourages the workers and their employers to work out an acceptable regime.

The bill that these folks over here are proposing would allow the workers in, let's say a George Richards store, who had agreed to work on Sunday—let's say the store has 10 employees including the manager—if the store opens at 12 noon on Sunday, to advise the owner, the employer at 11 o'clock on Friday that they had all decided not to come into work because they wanted to go and have a picnic and it was going to be a nice day and they did not want to work. If I were to tell you that under those circumstances you, as the employer, could take no measures in respect of that refusal to work on Sunday, what would you say about that law?

Ms Shore: In essence it would make a retail business very difficult. However, I will stress—

Mr Sorbara: Or impossible?

Ms Shore: Relatively impossible, I will say. However, when we were put into the position that Sunday shopping was allowable in this province, we kicked it in immediately and we found just that: Some of our employees were not comfortable, made the requisition. I myself and many senior managers at the very last minute pinch-hit, went in and opened the store. We will not be in a position of forcing employees to do something beyond their will. You cannot gain people's respect by forcing them to do something they do not want to.

Mr Sorbara: I am talking about the employees who have agreed to work on Sunday, who have said to you: "You can rely on me. I'm coming in on Sunday." Should the law give them the right to phone up on Friday and say: "Forget it. I'm not coming in"?

Ms Shore: If one understands the nature of the retail industry, one will understand that that is a given every day of the week, so we are kind of used to it and we usually have an awful lot of backup. What we did find when we were open Sundays was that we had a lot of part-timers, students coming in saying: "I would be most comfortable working weekends. Can you give me Friday night, Saturday and Sunday? I have to do homework during the week." I have absolutely no problem in finding enough staff who will not only choose to say yes, they will be available, but will want to work on Sundays. Those are the only kind of employees I want working on Sundays—people who want

to be there. Otherwise, they are going to be completely unproductive to me.

Mr Sorbara: Good.

Mr Carr: Thank you very much for the presentation and thank you for laying it out very well, including the figures and so on. That was very well done.

The question I have is this. One of the concerns that has been voiced—and I think you touched on it just at the very end—is not so much the smaller retailers, but the larger retailers, the big, bad businesses out there forcing people to work, that would say, "You've got to work and that's it." One of the ladies yesterday spoke about it and said, "We don't want somebody in the store who doesn't want to be there because they're going to scare our customers away." How do you manage that in a company as large as that? How do you dictate that so you do not get a manager saying, "That might be corporate policy, what somebody said before the committee, but the reality is, I'm going to make this person work"? How do you get around that in a large company like yours?

Ms Shore: I think the most effective tool that retailers are finding in general is a strong sense of scheduling. What one has to make sure of is that you have balanced off your budget, you know how many people you can have and make sure that you have, like I said, the students who back you up part-time.

As well, we found there were educational institutions calling us and saying: "We'd like to do a co-op program. We'll work with you on the weekends." So I believe that if you have a strong corporate commitment to treating your people fairly, you present the argument to them fairly.

I was very surprised and pleased to see that a better part of our employees were prepared to assist us and actually quite enjoyed having Tuesday off to take a child to the dentist or, if their husband is on shift work or their wife is a nurse on shift work, that we can provide that level of flexibility, coupled with the fact that now I am in a position to give somebody a Monday, Tuesday off if they will work with me on a Saturday, Sunday. Although that is not considered a benefit or a direct incentive, it is a reality. We have seven days to juggle their 36-hour work week, which makes us much more functional. So I have no concerns that we can fill those positions very easily.

Mr Carr: So when the Solicitor General says, "This legislation is going to protect workers," in your opinion that is wrong.

Ms Shore: No. I can vouch for my organization, that we will build it into our corporate policy that nobody will be forced to do anything at Grafton Group that they do not want to do. However, the point I am making is that I think there should be a protection for the bad guy. It will not be us. We will make darn sure of it. We are too big, we are too effective with our people. However, for retailers in general, safeguards will always allow employees to feel a little bit more secure, a little bit more protected. We have never had problems with our staff. My guess is we never will.

Mr Carr: I see. You have given some of the figures here. The company is traded, so it is obviously public

knowledge, but where are you at now? Are you in a loss position as a company in the last quarter, last year?

Ms Shore: Yes. Things have not been good in retail. I am sure I am not the only one standing up here and saying that things are quite bleak.

Mr Carr: So you are already in the red? You have reported losses over the last—

Ms Shore: Yes.

Mr Carr: Were they substantial—\$3 million, \$6 million—

Ms Shore: Yes, they are substantial. It is public knowledge as per our annual report, but things are not looking too sharp. I will tell you one thing, all these added factors are not making it easy on us.

Mr Carr: So these figures that you have would be on top of that, so if you are reporting a loss of whatever amount, these figures would be added to that?

Ms Shore: Yes. As I recommended before, we have very clear statistics. We had a feeling that something may go funny with Sunday shopping, so we kept statistics that really did detail how much we made, how much—

Mr Carr: Something went funny with the province. September 6—

Ms Shore: Those funny things, you have to protect yourself against them. So we did keep statistics for that reason, so we can literally open up the books and prove where we had to hire staff, how many hours they took, the kind of wages. As I recommended, we pulled them out to a per annum basis, so we could all get a better feeling of what that meant for a year.

Mr Carr: What would it mean to you if we end up with a situation where certain municipalities open and other ones do not? How would that affect the company in terms of scheduling of employees? Would you be able to shift employees if one is open and somebody wants to work? Could they shift stores and go to Peel if they are open and Toronto is not, or whatever? Could that be done?

Ms Shore: Let me suggest that “freedom” or “choice” to me sounds like a global word, as opposed to a municipality-type word. So my recommendation would be, either we are choosing to have choice or we are not going to have choice. How can you offer some municipalities some choices and others not? So I would suggest, as being sort of a national company, that basically “choice” is a big word that we would like to take in as a big company and see effective across. However, in view of the fact that business is tough and we need to make a buck, yes, we will do what we have to do to make money, but I think we recognize that if we are going to give choice, let’s give choice. If we are going to allow people to make decisions, let’s make it a province-wide appeal, as opposed to this region, this region, that region. How do I turn to my employees and say, “I’m sorry, for some reason this region doesn’t want you to have freedom, but if you and your family move there, then I can provide you work on Sundays”? A bit of a crazy approach to dealing with business. We try to do things globally or at least across the country, as opposed to little bits and pieces and factions.

Mrs Haslam: I am glad to see that you are in support of protection for the workers. Do you pay your students time and a half on Sundays?

Ms Shore: Generally we are not open on Sundays, obviously.

Mrs Haslam: When you were open.

Ms Shore: No, we did not. We are a company, we set our policies. We believe that Sunday is part of the work week.

Mrs Haslam: And that is how they are hired?

Ms Shore: Absolutely, and I will tell you one thing, the students were thrilled to have the opportunity to be hired.

Mrs Haslam: Do you support the changes to the Employment Standards Act which allow workers to refuse Sunday or holiday work?

Ms Shore: What I will recommend is our corporate policy. We will instate a corporate policy, but basically we will always go along with the law and never force anybody to do anything he chooses not to do.

Mrs Haslam: So if a worker wanted to refuse the Sunday or holiday work, that would be fine with your company?

Ms Shore: It would be fine with my company. However, I think what one has to think of is when one is hiring people one would want to implicate: “How many hours do you want? You’ve got seven days to juggle it. How do you think it’s effective to juggle it?” I am not going to fight with my employees. They will not be productive and they are going to mope around the floor and not bring me any sales. So sure, we are going to make them as happy as we feasibly can.

Mrs Haslam: You are in favour, then, if something comes up, of them being able to say no to the Sunday work with 48 hours notice.

Ms Shore: I cannot help but come back to the very fact that retail is such a tenuous business when it comes to employees that often something seems to pop up when you have that many employees. So it happens now and we cope. If it will happen then, we will cope. However, again, I would like to suggest that we will try to hire some people who choose, who want and who are excited to work on Sundays as opposed to Thursdays, because it works better for their personal schedule.

Ms Shore: You pay the same pay, then, no matter when they work?

Ms Shore: Absolutely. My feeling is, most people who work for us are happy to be paid and happy that we are in business and that is about the extent of things right now in the province.

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Mrs Haslam: You are a large corporation. Do you agree with guaranteeing 36 continuous hours of rest time in your seven-day work period?

Ms Shore: I think rest time is vital for all of us, as we know, otherwise you collapse. The way people choose to take their rest time to some extent should be up to them. Often at Christmas time, we will have students who will beg us to keep them on as many waking hours as they can

stand in our store because they need the funds to support themselves. That is the reality of retail.

Ms Haslam: But you have no problem with someone who wishes to take that 36 continuous hours of rest?

Ms Shore: We will work to the very best we can to guarantee whatever it is that our employees need. However, I will recommend to you that if you were a retailer and you were standing in a store, you would have people signing up for more hours than probably are even healthy for them.

Mrs Haslam: But what I am asking is that you have no problem guaranteeing 36 hours of continuous rest.

Ms Shore: We will work within the law, absolutely.

Mrs Haslam: How much time do I have, Mr Chair? About a minute and a half? I will talk fast.

You have no problem with strengthening the role of employment standards officers in dealing with employee grievances?

Ms Shore: Not a problem with that at all.

Mrs Haslam: Have you looked at the tourism criteria?

Ms Shore: Yes, we have.

Mrs Haslam: Do you feel it is broad enough or too broad?

Ms Shore: It does not really make sense to us in the sense that tourists come in, and if they want to shop on Sundays—

Mrs Haslam: No, the tourist criteria for opening of a store.

Ms Shore: No, it does not work for us. It is a matter of handicrafts. There are just a lot of stipulations and restrictions that—

Mrs Haslam: So you feel it might be too limiting for you?

Ms Shore: Yes. It does not work within the confines of the business we are in. I guess again we come back to the issue of choice and freedom. If you are open, then you are open.

Mr Fletcher: A very good presentation. Thanks for being so candid. You tie in the Sunday shopping issue with cross-border sales. When I listen to what British Columbia is saying, British Columbia has wide-open Sunday shopping, but cross-border sales have increased even with wide-open Sunday shopping. It is not really the availability of a place to go shop; it is the price that comes into it. So the other factors are there, not just opening on Sundays in order to keep people from travelling across the border.

Ms Shore: I try to make clear that there are other issues, and one would be naïve to present Sunday shopping as the only reason. However, what I would like to put forward is that we are already up against taxes they do not have in the States. We are up against higher wages they do not have in the States. I can go on and on about the other things that are happening in this province. If we do not allow ourselves at least to be competitive in terms of the level of convenience of being open on Sunday, then I think we are really causing a very big problem in our province. You may choose to shop, you may decide that Buffalo is a

little bit cheaper than here, but the reality is you cannot shop here. That is the way it is right now.

Mr Mills: I would like to thank you for your presentation. I thought it very interesting. What I would really like to get to grips with is how you came up with the figure for lost sales due to Sunday shopping, which is \$7.6 million—and I do not have my calculator with me—shared among 447 stores.

Ms Shore: Basically, we drew on statistics from each of our divisions that was open during the period that Sunday shopping was available. It basically worked out to be somewhere between 3% or 4% of our sales extra, on top of normal business practices. We went back over a three-year period and checked the statistics to make sure we made sense. Obviously, I would not provide you with statistics that I could not fairly well back up. If you want a written summation on exactly how the information came about, I could provide that to you at a later date. I thought we might not have enough time to go through the mathematics.

Mr Mills: One quick final question. Do you or do you not agree that a certain amount of Sunday shopping is slippage from other days? How did you discern that the loss was specifically on a Sunday and not slippage from other days?

Ms Shore: We looked at the business we did on Sundays. Then we looked at the business we did regularly. We took more than a significant portion of that off because of slippage and gave the very least of what would be feasible. These are superconservative figures, because I did not want to come here blowing my horn if I could not back it up. In fact, just this morning, I got data from Maher that claimed that when they were open on Sunday, they did 20% of their business. Presenting you with that figure is unrealistic. Presenting you with potentially 3% is very realistic and very conservative.

The Chair: Thank you very much, Ms Shore.

ONTARIO HOTEL AND MOTEL ASSOCIATION

The Chair: We now have a presentation from the Ontario Hotel and Motel Association. Is it Ms Karabinos?

Ms Karabinos: I thought you were going to be afraid to pronounce it.

The Chair: You have approximately half an hour. Typically, people divide it in half, half for your presentation and half for questions from committee members, but you are free to use that time in whatever way you wish and to start when you feel comfortable in doing so. If you would like a glass of water, please feel free.

Ms Karabinos: I might just take a glass right now before I start.

First of all, I would like to thank you very much for this opportunity of appearing before you. As stated, my name is Diane Karabinos and I am the executive director of the Ontario Hotel and Motel Association.

If I could take a minute just to tell you briefly about who we are, we represent over 1,200 members who own and operate large and small businesses in the hospitality industry. These businesses are hotels, motels, taverns, restaurants, resorts and lodges throughout the province. The

association members employ well over 45,000 people and this number grows during special holiday seasons.

We respectfully request that the members of the standing committee on administration of justice consider the following: that Ontario encourage tourists and visitors by having unrestricted retail shopping on Sundays and holidays in all areas throughout the province and as the market dictates, without any restrictions. OHMA is in favour of unrestricted Sunday and holiday shopping. We feel that unrestricted Sunday and holiday shopping is vital to our economy and the tourism industry throughout the province.

In a market-driven economy such as ours, consumers should be allowed the freedom of choice to decide which retail businesses and establishments they wish to patronize. The open and free market should be the final arbiter as to whether or not retail businesses function on Sundays and holidays, while still respecting the employment standards. Unfair and inequitable legislated restrictions are the worst form of economic blackmail in a free market economy.

As well, Ontarians deserve the right to work, earn incomes and profit from the production and sale of goods or the provision of services any day of the week. Economic prosperity generated in a free and unrestricted economy would benefit all Ontarians and their quality of life.

Retail shopping is an integral part of the tourism experience and represents a significant portion of the value of all tourism expenditures in Ontario. Most retail shopping, dining out, touring, sightseeing and recreation takes place on weekends. Shopping has even become a family outing, and the majority of Ontarians and visitors favour retail shopping on Sundays and holidays. The popularity of cross-border shopping shows that Canadians will travel to the south, not only because they perceive the product to be cheaper but for ease of access to these goods.

This industry is the largest private sector employer, and the service sector accounts for 70% of all new jobs. Tourism is responsible for the creation of 32 full-time jobs for every \$1 million in tourism expenditures. We employ professionals, skilled and unskilled, and are the largest employer of women, youth and visible minorities. There is no other employer capable of this range of employment opportunities for permanent or part-time employees of professional service staff whose educational achievements vary from elementary through to college or university backgrounds.

Tourism generated in 1990 direct expenditures of \$15.5 billion, with estimated total income of \$22.5 billion and estimated total sales of \$36.9 billion. It is one of the nation's largest generators of personal income, corporate, property, business and sales taxes to all levels of government.

The closures of retail businesses on Sundays have meant job losses to many, especially students who rely on this income for their schooling. Our members throughout the province are reporting a large drop in business. They strongly feel that the availability of Sunday shopping will alleviate even slightly the slumping economy. Of our members surveyed, 75% have said that closing the stores on Sunday has meant a decrease in revenue. We recognize there are other factors that have also contributed to the decrease in revenue, but feel that the freedom of choice to

open and work at retail businesses on Sundays and holidays is a means to reverse this problem. This revenue to quite a few means survival, and unless retail shops are allowed to open on Sundays to draw tourists and visitors to their respective areas, many will have to close their businesses.

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Obviously, the hardest hit areas are the border cities. Ontario will remain uncompetitive and continue to lose billions of dollars worth of annual tourism sales unless we change and allow unrestricted Sunday and holiday shopping.

The hospitality industry is faced today with many obstacles and increased operating costs. In order to remain competitive and recapture some of the lost business from our neighbours to the south, we must have the ability to compete on a level playing field. Bordering American cities are wide open for retail business on Sundays and holidays.

Bill 115 does have some merit and we appreciate the Ontario government's recognition of the value and importance of tourism in this legislation. We do, however, feel that the interpretation of the tourism criteria would create a lot of confusion, not to mention an administration nightmare in time and cost. To limit the timing for municipalities to declare themselves as tourist areas is also too restricting, as circumstances could, and most likely would, change at a much later date.

The concept of a common pause day in Ontario is outdated and discriminatory. Multicultural Ontario in the 1990s is populated with every religion and ethnic background, and to allow one faith, belief or ethnic custom to dictate the lifestyles of everyone is wrong. Our contemporary society shows that Ontarians work at all hours of the day and night throughout the week. Hotels, hospitals, transportation, just to name a few, must all conduct work 24 hours a day, seven days a week. While some people rest, others conduct business and provide services. Their professions are a necessity to any community, and I do not believe their quality of life is diminished by their work schedules. We must provide these products, experiences and services to our customers when they want them or risk losing them to other competing jurisdictions.

We appreciate that the proposed amendments to part XI-B of the Employment Standards Act recognize the operating realities of our industry. It is most important that all employers retain the right to schedule work and dictate work schedules.

In closing, I ask that you bring Ontario forward and that we become once again the province to lead. We have a tendency to live in the past, remembering how our mother was home in the kitchen and the smell of fresh baked goods greeted us as we returned home from school. But we all know how times have changed and we must also change, not only to keep up with the times, but to take a leadership role in this changing society. We will always remember the good things in the past, but we also remember that change is good and change is what keeps us alive.

I have often asked—and I still have not had an answer—what happened when the stores were open? Was the public ever surveyed as to what they felt? Were the workers asked? Were the shoppers asked? I feel we have to grow up. We always will want what our memories think is best,

but does that mean we hold back progress? We are constantly being told that we live in a free world where we have the freedom of choice. The freedom of choice to open retail outlets on Sunday is not a luxury but a necessity, because to many it will mean survival.

I thank you very much for having this opportunity and I would welcome any questions you may have.

The Acting Chair (Mrs Haslam): Thank you. There are about 20 minutes left and that is about six minutes per caucus.

Mr Poirier: Could you describe to us briefly how what is proposed in Bill 115 pertaining to the tourist exemptions, as you know of it, would impact upon your association members? What do you foresee happening?

Ms Karabinos: You mean the impact of the municipalities having the—

Mr Poirier: Deciding this thing and from one variation to another and who gets what.

Ms Karabinos: What it will mean is that one area will be different. Say one community has designated itself as a tourist area in falling within the guidelines. Neighbouring residents will go into that area and will leave another area that will be destitute again because the municipality chose not to. People will travel 10, 15 minutes away, so as soon as you start putting a section—one pocket here is allowed to open; the next pocket will not. Residents of our province are now travelling to the United States. You can be sure they are going to travel to the next community if they need something.

Mr Poirier: Do you think some of your members, if not all of your members, wherever, may challenge local decisions made one way or the other?

Ms Karabinos: I would hope they would all appear, and I know they are appearing throughout the province on this issue. Quite frankly, as the lady who was before me mentioned, we agree it is not just the Sunday shopping that is affecting us, but it is very bad out there for our members. A lot of them are closing shop, so anything that will help them increase their business is a necessity.

Mr Poirier: Assuming that Bill 115 passes, and assuming you had this tourism designation mechanism as per what is proposed, would you see your members challenging in court, for example, if they got a refusal for a designation? Could you see that happening?

Ms Karabinos: I think it would really depend on the area and the members and the impact it would have on them.

Mr Poirier: Have you discussed that among your members?

Ms Karabinos: Ontario is a large province, and unfortunately what will affect us here in a jurisdiction in southern Ontario might be a little different in northern Ontario. When it happens, we have to look at each situation on its own merits.

Mr Sorbara: I think it is safe to say that the vast majority of your members are hurting very badly during the current recession. Is that not the case?

Ms Karabinos: That is correct, yes.

Mr Sorbara: And that in the greater Toronto area, convention business, large groups coming for one reason or other, is down very, very significantly over previous years?

Ms Karabinos: Yes.

Mr Sorbara: And in rural areas, given the increase in the cost of beverage alcohol, the GST, and the lack of high levels of employment that allows people to do a significant degree of travelling, your members throughout the province are suffering, perhaps, some of the worst economic times they have suffered in memory?

Ms Karabinos: Very much so, yes.

Mr Sorbara: I know there are a number of things that your association would like the government to come to grips with, including, my goodness, under the Liquor Licence Act, taxes, and under a variety of other things.

The interesting part of your submission is that you assert that your members, who operate restaurants and taverns and hotels and motels, would benefit if business entities that are not members of your association were allowed to remain open on Sunday if they wish. Why is that? Why do your members believe they will benefit by virtue of the fact that other stores, not members of your association, are allowed to remain open?

Ms Karabinos: We feel strongly that by stores being open, it will draw tourists out; it will bring people out of their homes; it will have people experience the outdoors, even. Somebody will come out and will go and stay overnight in a hotel, where they may not have if the stores were closed. I, say, in Toronto, would not say, "Well, I think I will take a drive up to Barrie and stay overnight till Sunday because they have the shops open." This way it encourages people to get out. It encourages people to go out into the province, because where they now have only one day to do it, they would have two days to travel.

Mr Sorbara: Can I give you an example of that? The Ramada Inn in Buffalo was advertising in Toronto a weekend package for a family of four to stay in their hotel at \$55 a night for the weekend. For a family of four, that is two rooms. As soon as you got to the hotel, you as a Canadian were provided with a long list of stores that would take the Canadian dollar at par. Is that the kind of thing you are talking about?

1520

Ms Karabinos: A little bit. That definitely is the border towns. We do have a member who has said his business has dropped to almost nothing and his competitor across the border is getting it all. Where we used to have American visitors come up for the weekend, they do not come any more. Yes, Sunday shopping is really only one of the issues. The cost of gas, the GST—there are many things that do affect it. But, yes, that is just one incident.

If you want to go to southern Ontario, if you want to go to eastern Ontario, it is the same. They have the border situation. If you want to go to northern Ontario, it is just as much a factor. In northern Ontario sometimes it is even more because the dollar is harder to come by, and to have that extra day that they can actually have their places open to draw more visitors there will of course help our members.

Mr Carr: Thank you very much for your presentation. On page 5 you were talking about the interpretation of the tourism criteria and how it would create a lot of confusion. Even in this committee it has created some confusion when we have all these municipalities. Is that what you meant, that now, even though they are fairly broad, municipalities are going to be interpreting them and there are so many municipalities that they are going to interpret them differently for whatever reasons, because they may have a bias or whatever? Is that what you are saying by confusion?

Ms Karabinos: Two ways. One is definitely that. I think we can all read a sentence and everybody will take it a different way. That is exactly what is going to happen. And who is to say why one municipality will qualify and maybe its neighbour will not? I think that is the other part. Somebody who is living on one side of the street in one municipality is going to question, "Why can they shop over there?" The average public does not understand a lot of the things, and in layman's terms they have to be told.

Then you are discriminating. It is just as easy to say it is either open for everybody or, as Mr Magder suggested, just close everything down. It is not fair to have it one way or the other.

Mr Carr: What did you mean by the administration nightmare in time and costs? Does that mean your association, your groups are going to have to go and lobby on this matter?

Ms Karabinos: No, I am thinking even more within the government, to monitor it. Again, who has the right to judge, to say, "Yes, you are correct"? My interpretation will be different from yours. Does that mean my interpretation is the right one and yours is not? Then you are going to be caught up in all sorts of legal battles, because maybe a municipality has strong feelings one way and somebody else has strong feelings the other way. So I see an awful lot of time being wasted in that respect.

Mr Carr: Unfortunately, I think this is just the beginning of that battle. Poor Mr Magder has been doing it for 12 years and 12 years from now we might still be battling the municipalities.

On page 4 it said that of your members surveyed, 75% have said that closing stores has meant a decrease in revenue. How was that done? Was that just an open-ended question?

Ms Karabinos: No, I did a survey a few months back where I went to my membership. I must say, if anyone knows surveys, that this had to be one of the most responsive ones. I believe I had about an 11% response to this survey. It was on all tax matters. It was, "Has the recession hit you?" This was one of the specific questions I asked. "Has Sunday closing affected you? Has it meant an increase in business or a decrease in business? Have you had to lay off employees because of this situation?"

Again, I gave them the option that they could say it was just because of taxes. And everything was listed. There really was not one area that was the result. It was a combination of everything that created this loss of business and revenue that in turn had made them lay off employees.

Mr Carr: Time still? Quickly?

The Acting Chair: You have about two minutes, Mr Carr.

Mr Carr: I just have one last question. A lot has been mentioned about how to protect the workers. Coming from an industry where people do work on Sunday, how do you see that working? Would there be any suggestions you would have to ensure that workers are protected? This whole legislation was to protect the one group, the retail workers, from having to work on Sunday. You are an organization that does work. How do you see that working and can we maybe pick up some tips?

Ms Karabinos: It all varies, but I think the biggest thing is that when an employee comes into our industry—I keep repeating the word "choice"—they have the choice. They know this is what the industry is all about and they still want to do it.

I think this is where the difficulty is right now, because we are in a transition where people maybe were hired not thinking they ever had to work on Sunday. I hope the day will come that when they go into a job, that will be one of the conditions, and they will have that choice and will say, "Yes, I will want to work." If they do not want to work, it is not to say they will not get the job. You know, you adjust your schedules accordingly and you suit it. Our industry is service-related. We want people to be happy and to service our customers and they have to be happy with what they are doing.

Mr Fletcher: Thank you for your presentation. I have just a couple of things. You said that with Sunday opening, tourists are going to flock in. So in my jurisdiction, Guelph, where I am from, if we open up the whole city for Sunday shopping we are going to be flooded by tourists?

Ms Karabinos: Would that not be nice?

Mr Fletcher: That is the assumption you made.

Ms Karabinos: I think it is an exaggeration when you are saying "flooded by tourists." I think it will increase the traffic into your city and into your area. There are other things that will contribute. The operating costs for our members or for any employer in this province are so exorbitant that they also contribute to the cost of goods. Sunday shopping is one thing; it is not a real solution to the whole problem. But we could lower our taxes, lower prices—

Mr Fletcher: Just lower prices could be more of an incentive for people to travel around, rather than opening on Sunday.

Ms Karabinos: I think if you had lower prices and they did not have the opportunity to take advantage of the lower prices—one hand washes the other. I do not really think there is one more important.

Mr Fletcher: Also, you were talking about the United States and its wide-open shopping. I have a little report here from a survey that was conducted by the Wilson Center in Washington, DC. When they asked questions of retail workers in the United States—"What do you value about your job? What do you really want?"—the highest priority from these workers was that they wanted their leisure time, their holidays and their vacations. That was the highest response. That received more priority than wage increases.

I have heard a lot of people come in and say, "Oh, people love to work on Sundays and holidays." I am not sure about that, especially after I read the results of this survey.

Ms Karabinos: If you will excuse me, I believe you said their vacation and leisure time. I do not think whether they work on Sunday or not would—

Mr Fletcher: Their vacation and holiday time, and Sunday is a holiday.

Ms Karabinos: To me that is not Sunday. To me, vacation and holiday time is time off work, be it Monday, Tuesday, Wednesday, Thursday or Friday.

Mr Fletcher: Right, and if Sunday were made a holiday, that would be holiday time. As of right now, Sunday is really a holiday. That is what it is booked under, but I am not here to argue that one with you.

The other thing, when you talk about choice—I come to you for a job and you ask me, "Are you willing to work Sundays?" I say, "Well, no, I don't want to work Sundays; I really think Sundays are my time." Would you hire me?

Ms Karabinos: I think if you were qualified and you were the person I needed to perform that job, I probably would. I am talking on a personal level now. I cannot talk on behalf of my members on this.

Mr Fletcher: But you would not try to talk me into working Sundays or coerce me in any way to work on a Sunday?

Ms Karabinos: No, but I would like to think that any employee and employer work out a good working relationship and at some point in time they come to an agreement.

Mr Fletcher: Yes, it is nice to think that things work that way, but we know they do not always.

Ms Karabinos: I believe in fairy tales.

1530

Mr Mills: Thank you, madam, for being here. I listened. The legislation is draft. We are listening and taking into account everything that everybody says, contrary to any perception or misperception you may have.

I would just like to draw your attention to page 5 of your presentation, as Mr Carr did, when you say that "interpretation" of the tourism criteria will create a lot of confusion." I just wonder if you know, or have been apprised, that the criteria really came from the tourist industry. Are you aware of that?

Ms Karabinos: I am not fully aware. I would probably—and I hate using the word—assume you had input from the tourist area, although I do not know if it was exactly as the final outcome was.

Mr Mills: In developing the criteria, the government focused on the importance of community tourism and on the factors that have been demonstrated over time and in a wide variety of countries. We really looked in depth at that; this is not some wild stab in the dark about the criteria. I really wonder, when you say it could create confusion, when in fact the concept of the criteria came from the industry. I just wanted to make that perfectly clear to you, that the concept of the criteria is not a government idea of tourism but one directed from the industry.

Ms Karabinos: I think you may have misunderstood when I said "confusion." It was not just confusion for the resident there. I felt it would also create confusion at municipal and provincial levels of government as well.

Mr Mills: It is the intention of the government later on down the road—and we cannot do this now, obviously, because we have not listened to the people—but when everything is set in place, to provide municipalities and regional municipalities with guidelines to help them come to grips with this. I think the confusion perhaps is a little bit of a misconception in your mind, because we fully intend, once we have heard all the presentations and we have drafted the final legislation and the regulations, to make that information available to everybody and, in addition, it will make the universality of the criteria, whether it be in a little village or in Metropolitan Toronto. I would just like to leave you with that.

The Acting Chair: Thank you for your presentation.

Ms Karabinos: Thank you very much.

Mr Sorbara: On a point of order, Madam Chair: On the last submission the witness was right. Sunday in the province of Ontario is not a holiday under the statutes of the province.

The Acting Chair: Thank you for your information. I do not believe it is a point of order, but thank you for that information. You are so good at sharing information with us, Mr Sorbara.

Mr Fletcher: On a point of order, Madam Chair.

The Acting Chair: This had better be a point of order.

Mr Fletcher: Sunday will be a holiday after this bill is passed.

Mr Sorbara: No, that is not the case.

The Acting Chair: Thank you. Again, that is not a point of order.

Mr Sorbara: No, it is nonsense.

The Acting Chair: Thank you for sharing that with us, Mr Fletcher.

SUSAN MATTHEWS

The Acting Chair: I would now call on Susan Matthews. Ms Matthews, I would ask that you understand we are in some sort of time constraints, as usual.

Ms Matthews: I am an independent. I am not representing any—

The Acting Chair: Yes, I am just reminding you that we have about 15 minutes available for you and within that 15 minutes, your presentation and/or questions, if there is time.

Ms Matthews: Thank you. I think I can cover it in about two to three.

Madam Chair and committee members, my name is Susan Matthews and I reside in the east end of Toronto. I am here as a resident and a taxpayer to say that I am in favour of retail businesses being open on Sunday.

I have worked in the retail business for almost 30 years in one form or another and, as a resident of the Beach area, I am saddened to see the staggering number of business

closures over the last year, to say nothing of other area businesses throughout the city and the province.

Toronto is no longer Hogtown nor Toronto the Good of yesterday. We are a magnificent, first-class city, playing at being cosmopolitan and losing millions of dollars a year in the process.

Employees who work in hospitals, hotels, security, entertainment, sports, food services and transportation, to name just a few, are expected to work on Sundays to provide service to the many consumers who choose to use the service when they want to or need to.

Retail is a natural progression to expand this service. People are willing to work hard, including weekends. Students are in desperate need of work to continue their education and the extra hours of Sunday openings would be a welcome addition to their financial needs.

As a city and a country, we have bent over backwards to welcome and assist people of all ethnic and religious backgrounds to settle comfortably in Canada. We should be equally concerned and accommodating of our existing residents by realizing that our modern lifestyle includes Sunday as day of doing for everyone. Should it not be an independent business choice and an independent resident's choice as to how we spend our Sundays?

People are desperately trying to hang on to family businesses, their homes or simply pay the rent and get by. Our high standard of living is extremely expensive in Toronto and we must be competitive with service hours, as well as our prices, if we are going to be successful in implementing free trade with our US neighbours.

Like a television with an on and off switch, we may choose to watch or not. We may choose to shop or not. Allow the residents and the taxpayers to choose for themselves whether their family will spend Sunday at play, work, shopping or the place of worship, or maybe a combination.

In our modern society, time is a valuable commodity and Sunday has become a day of positive activity, particularly when both husband and wife work full-time and Sundays often include shopping excursions. Retail is part and parcel of our modern lifestyle and an integral part of community life.

We have not lost our family values, we are simply moving with the times. Sunday shopping is a benefit. It is not a penalty. It is a positive change and it can be labelled as progress. I believe that we the taxpayers deserve the choice and I thank you.

The Acting Chair: Thank you. About three minutes each.

Mr Sorbara: Thank you, Ms Matthews. That is, I think, as succinct a statement about where we should be going as anyone has made before this committee. You said in your statement that you have been involved in the retail sector for almost 30 years.

Ms Matthews: Yes, I am unusually well-preserved.

Mr Sorbara: That is not where my question was going, although we could talk about that later. What kind of business, running your own business or working within a business? Can you tell us a little bit about that?

Ms Matthews: I have been a retail employee. Presently, I am involved in part-time employment, but for the

most part I have been with major department stores and with two of the largest design groups, furniture sales, in Canada.

Mr Sorbara: We will not get into your comments about being well-preserved, but I guess you would remember a few years ago when virtually no major stores were open on Sunday. Is that not the case?

Ms Matthews: Ten years ago I would have fought tooth and nail not to work on a Sunday, I believe.

Mr Sorbara: Timothy Eaton would have—

Ms Matthews: Turned in his grave.

Mr Sorbara: —turned in his grave had his stores opened on Sunday. But the world has changed, has it not?

Ms Matthews: Yes, and he was a very, very astute businessman and I think he would recognize that you do not change and grow by thinking 30 or 40 years past.

Mr Sorbara: I tend to agree that we are a very different place now and life as we know it will not come to an end in Ontario if we have a great deal more freedom to make personal choices than we have right now, and certainly than we might have under this bill. But although you have attached a list of stores in the Beaches that are opened or out of business—

Ms Matthews: Yes, in fairness to the committee, you should know that was not compiled by me. That was compiled by, I believe, two university students who live in the area. They circulated it throughout the E2 real estate area generally because they were having difficulty getting jobs. It was in stores; it was in doors; it was in a variety of places.

Mr Sorbara: So obviously one of your reasons for coming before this committee is your concern about the terrible state of affairs with businesses in your own communities, with going out of business and bankruptcies and stores for rent.

Ms Matthews: I have lived in Toronto my whole life, Mr Sorbara, and I think it is very sad to see what is happening to family businesses, whether they have been around for a year or 75 years on Bloor Street.

Mr Sorbara: In a very personal way—

The Acting Chair: Mr Sorbara, I believe Mr Daigeler had a question. I do not even have time for Mr Daigeler's question because your time limit was three minutes, as I said. I am sorry.

Mr Sorbara: The government members are not participating in the committee, so maybe we could have their time.

The Acting Chair: Oh, Mr Sorbara, there you go again. Mr Carr, you have your three minutes now and we will go from there.

Mr Carr: Thank you. I will be very quick, and if there is a little bit of time maybe Greg could take it afterwards. You worked in the retail business and said that you changed your mind. One of the concerns that the government has expressed is not so much for the small stores but with the large stores that would force employees to work, and that people would be working against their will. I do not know if you worked in some of the large stores during that period of time, but what is your perception about that? Do you think that it is a valid concern?

Ms Matthews: Yes, I do. Somebody can look you squarely in the eye and say, "Certainly I would not hold it against my employee," but in the grand scheme of ladder-climbing in a very large corporate sense, I think we all realize that sometimes, with personality conflicts or someone who says, "No, I simply have the courage of my convictions; no, I will not work," maybe somebody will say, "They really do not co-operate; we will just hold them back." Yes, that is very valid. But I also think that it is part of the change that is necessary and yes, there will probably be some bumps and bruises, but it is no different from when the stores started to open at night.

Mr Carr: What about, then, the protection that we talk about for the workers that is part of this legislation? Do you think that it is good? Did you have any comments on that, the protection for the—

Ms Matthews: Protection for the employees is paramount, but more than the protection, I think, people desperately need and want extra income. They want to weigh the protection aspect, and the dollar aspect. I know a lot of people who are in that position.

Mr Carr: I do not know if I have used up all my time.

The Acting Chair: That is just about time, Mr Carr.

Mr Frankford: I have been a Beach resident and I earned my living there for a while until I got into this racket.

Mr Poirier: Now you work on Sundays.

Mr Frankford: I gather there are two objectives you would have. One would be preserving the character of the Beach, of Queen Street—

Ms Matthews: I live in the Beach but I am a Torontonion. To Beach people, I am not a Beacher. You have to be there 75 years-plus to be a Beacher. I love Toronto, I live in Toronto, and I am as concerned about Bloor West Village as I am about the Beach area. In my particular area, it does not matter whether it is Tuesday or Sunday, you cannot park there anyway.

Mr Frankford: So you do not like the idea of a tourist area?

Ms Matthews: I think it is brilliant. You live there, you have seen the T-shirts. If this is not a tourist area, who are all these people?

Mr Frankford: Yes, but you are uncomfortable with the tourist area approach in this legislation?

Ms Matthews: I do not care whether it is tourist or what it is. I just think it should happen.

Mr Frankford: Now, look at this list of businesses. Would you not agree that with many of these businesses it is a reflection more of real estate practices on Queen Street?

Ms Matthews: Oh, yes. The rents are exorbitant. But people have been there many, many years and are unable to survive because of the drop in business; they have not been able to keep their noses above water. One in particular that I know of—and I cannot speak for all because I do not own a business there—just said they got tired of sitting in the store when they could be sitting at home. They have simply closed their business, they are taking a six-month holiday, and they are going to reopen someplace else.

The Acting Chair: Mr Frankford, I am going to cut in here, if you do not mind, because I am looking at the time, and Mr Mills still has a question.

Mr Mills: Just a comment: On page 2 of your presentation—and I thank you for being here—you say that modern lifestyles include Sunday as a day of doing for everyone. I would really question that it is for everyone, because I am particularly concerned about preserving a common pause day as a family day, a day to get together, and perhaps a day to rest and not do anything. I do not really see that it is a day of doing for everyone. Another point you make is "independent business choice and an independent resident's choice as to how we spend our Sundays," that is, shopping. That would be a very nice philosophy, but when we want to engage in shopping, then it entails other folks to be of service to us and to work. I have a little difficulty with your choice of words there, that we want to be free to choose how we spend our Sundays. If you want to spend your Sunday hiking, I have no great qualms with that.

Ms Matthews: I work every third weekend. That is my choice, Saturday and Sunday.

The Acting Chair: Could you make it a question, please.

Mr Mills: I prefaced my comments that it was a comment.

The Acting Chair: I am just worried about you. I always worry about you, Mr Mills.

Mr Mills: I know you are worried about me, and you are not alone. Thank you very much.

The Acting Chair: No, I do not worry about you.

Mr Mills: I am here today really to put a point of view across about this legislation that I feel dearly about.

The Acting Chair: Is there a Mr John Winter in the audience? Then I am going to call a five-minute break, and I would like to start no later than 3:55. That certainly will allow enough time for the next presenter to be here.

The committee recessed at 1546.

1555

BI-WAY STORES LTD

The Acting Chair: I would like to start now. We now have a presentation from Bi-Way. We have Mr Eric Paul and Mr Michael Sherman. Mr Sherman, do I understand that you will be starting?

Mr Sherman: No, Mr Paul.

The Acting Chair: Mr Paul, the way we have been organizing our time is that you have a half-hour for your presentation. You can use that entire half-hour or you can use any part of it. Whatever time is left over after your presentation is equally divided for questions or some comments from the parties here.

Mr Poirier: Within the half-hour.

The Acting Chair: Yes, within the half-hour. I was very clear on that, was I not?

Mr Paul: Within the half-hour. Thank you and good afternoon. I am not sure when you started this morning,

but I am sure you have had a long day and I will try to be as brief as possible. As the chairman mentioned, I am Eric Paul, the chairman and chief executive officer of Bi-Way Stores Ltd and I have elected to appear today to voice my concerns about the proposed passage of Bill 115.

Bi-Way, as I am sure most of you are aware, has a long history of providing basic family apparel and household consumables at the lowest possible prices. In Ontario, Bi-Way operates 210 locations in large and small communities. Our sales revenues for last year in Ontario alone were nearly one-half billion dollars. Our customer base consists primarily of low-income families. These are the very people our government wishes to assist by providing better social services and economic programs. We employ approximately 35,000—that is, 3,500 Ontarians; maybe that was wishful thinking on my part—60% of whom are women. Well over half of these 3,500 people are under the age of 25. For many of these young people, mostly students and recent graduates, a job at Bi-Way represents a first employment opportunity.

Despite our history, quality people and our recent investment in technology of over \$10 million, we have serious doubts about our long-term viability if government legislation prevents us from being competitive. The proposed legislation which forbids the people of Ontario from choosing whether or not to shop on Sunday and forbids businesses from serving their customers in the best way they see fit does nothing but make worse the already difficult retail realities of the 1990s. This unfair legislation, like any regulation or restriction in a market economy, ultimately results in higher costs of doing business, proportionately higher retail prices to consumers and reduced capital reinvestment in the economy of this province.

We estimate that Bi-Way will lose 5% in annual sales due to Sunday shopping restrictions, representing \$25 million in lost revenues from Ontario alone. We plan no direct reinvestment as a result of these lost revenues and this real decrease in capital investment will directly result in our inability to create new job opportunities. I want to expand my business in this province. I want to create more job opportunities for Ontario workers. Yet I am hindered by legislation such as this. We cannot go on blaming the recession. We have to recognize the realities of the Canadian retail business and work together to help solve these problems, not make them worse.

It is true that Sunday shopping restrictions are not the only problem. Cost structures in Canada remain high as a result of the makeup of our social fabric, the lack of competition and in many instances the predatory pricing practices of multinational enterprises. To insure that Canada will be able to compete in the world economy, our costs of goods on a global and a free-trade basis must be competitive. I must add at this point that I think what we have seen in the marketplace is that we can buy our goods on a cost-competitive basis with competitors south of the border who are on average 10 times our size, business for business. But business must be encouraged to invest in people productivity and technology. We cannot be handcuffed by legislation that further exacerbates an already worsening problem.

Ultimately what I am saying there is that while we may be able to buy our goods on a competitive basis with those direct competitors, if in fact we cannot get the productivity out of our other assets, which is our physical environment and our people, we will not win. I believe we can get it out of our people. The challenge is, how do we get it out of those physical assets?

In Ontario, our tax base is not rising as fast as our need for social services and health care, particularly in light of our aging population. We are just as concerned as you are about reducing health care costs while maintaining adequate quality services. It troubles me that the higher prices to consumers which result from Sunday closures run counter to the stated goals of the provincial government. As a graduate pharmacist, I can appreciate the need for essential services. Essential services such as prescriptions can be provided by hospitals, prescription-only outlets or perhaps full drugstores on a rotation basis.

We currently operate a number of Drug World stores that are larger than the 7,500-square-foot limit imposed by this legislation. Drug World stores strive to provide low-cost prescription drugs to the people of Ontario. Drug World does this by keeping profit margins low and by selling prescription drugs in higher volumes. However, because of the arbitrary size restriction imposed by the Retail Business Holidays Act, Drug World stores are not permitted to open on Sundays.

Shoppers Drug Mart, which, I might add, is not 100% Canadian-owned and is one of Canada's largest sellers of tobacco products, is allowed to remain open on Sundays under the guise of providing emergency prescription services. Regrettably, Shoppers and other stores like it are not as focused on providing low-cost prescription drugs to Ontarians who need them. I ask you, whose interest does this legislation, the 7,500-square-foot limitation, really serve?

I emphasize again that Drug World competes on the basis of low costs. However, we could lower the costs of prescription services even further if we were allowed to compete on a level playing field with our competitors. If this government wants to provide low-cost prescription drugs to Ontarians, I submit that this arbitrary 7,500-square-foot limit be removed from the act.

Our own research indicates the people of Ontario want freedom of choice as to how they spend their free time. In fact, our customer base contains many dual-income households where Sunday becomes the only day the family can shop together. We strongly urge you to consider the opinion of all people of this province and respect the democratic process.

In conclusion, Sunday shopping has been a reality in the United States and parts of Canada for a long period. I have found no information that indicates that Sunday shopping, or the lack thereof, has a beneficial or a negative impact on the family unit. Does the government of Ontario really believe that the fabric of our society is so frail that it can only be safeguarded by enforcing a mandatory common pause day? I think not. On the contrary, a healthy economic environment with full employment will be the challenge of the 1990s in order to prevent further deterioration in our social structures.

Mr Daigeler: I just want to know who the owners of Bi-Way are.

Mr Paul: Bi-Way is a wholly-owned subsidiary of Dylex Ltd.

Mr Sorbara: I am concerned about the submissions you make on the question of the drugstore issue, the 7,500-square-foot limitation. Is it correct to say that generally, overall and given all your product lines, Drug World is a lower-cost facility than Shoppers Drug Mart?

Mr Paul: Yes.

Mr Sorbara: By what, 1% or 2% if you look at all the products?

Mr Paul: No, by a significant percentage. I would be happy to provide the members of the committee with the specifics, but I am not sure what part of the business you are referring to. Are you talking about the prescription part of the business, or overall?

Mr Sorbara: I am talking about overall. The point I am trying to make is that people with smaller incomes get a better deal at Drug World than they do at Shoppers Drug Mart.

Mr Paul: Let me give you some numbers. For those of you who appreciate the retailing industry, the gross margin per cent in a typical drugstore like a Shoppers Drug Mart is around 33%. Drug World is around 20%. That is a 40% reduction.

Mr Sorbara: If I were to do an analysis of your customer base compared with the customer base of Shoppers Drug Mart, I think it would be safe to say that your customers have more modest incomes than the customers of Shoppers Drug Mart.

Mr Paul: Yes, our research indicates that certainly we are heavily skewed to a lower-income demographic.

Mr Sorbara: The fact is that under this legislation, those with higher income will be able to continue to shop at their local Shoppers Drug Mart and the more modest income part of Ontario that shops at Drug World will not be able to shop on Sunday. Is that fair?

Mr Paul: I think that is a fair assumption.

Mr Sorbara: Do you think that is a fair law?

Mr Paul: No, I certainly do not.

Mr Sorbara: Have you made any submissions to the government or to the minister about why the arbitrary restriction of 7,500 square feet is in the act?

Mr Paul: Yes, my presentation today is a summary basically of a number of letters that have been written to the Premier and the minister regarding these issues.

Mr Sorbara: Have you received responses from the Premier or the minister?

Mr Paul: Yes, I have.

Mr Sorbara: And what have they said?

Mr Paul: Basically that they were considering all my suggestions and that they were going to committee.

Mr Sorbara: Would you like to hear today from the government members that they will remain open to changing the 7,500-square-foot arbitrary provision?

Mr Paul: I think it would be an insult to my efforts if I did not hear some kind of consideration from the government of the efforts of the people.

Mr Sorbara: I would like to hear from the government members as well, specifically in reference to the 7,500-square-foot provision, which is a clear example of where this bill is a preference for the rich and a burden on the poor. The rich get to shop in the stores they want to shop in and continue to have Ontario as their playland on Sunday, and poorer people with more modest incomes have the stores in their neighbourhood closed to them.

Mr Poirier: I look at the top of the last page that you have. It says, "It troubles me that the higher prices to consumers which result from Sunday closures run counter to the stated goals...." Could you expand on that? I find that interesting. You seem to say that if you are open seven days a week, including Sundays, you would be able to provide lower prices.

Mr Paul: In the retailing industry, for anybody who is a student of it, they call it the productivity loop, and certainly anybody who is up to date on survival in the 1990s will understand this. Basically it says that the higher the productivity of all your assets, the lower your prices can be, because it is a self-fulfilling situation. It is that kind of a process. In fact, if you eliminate one seventh of our productivity by allowing us not to be open on Sunday, which turned out on a per-hour basis to be the most productive day of the week in our environment, we are at a distinct disadvantage compared to somebody else who is allowed to be open for that period of time. In addition, somebody who is a loyal customer of ours who may need emergency prescription services cannot get them from the company he is supporting every day. They have to go somewhere else. I think that is patently unfair.

Mr Poirier: Fair enough. Sometimes you hear about the higher cost of doing business on a Sunday and that there is not an economic advantage to being open on a Sunday. What you are saying is contrary to what we hear sometimes. That is why I am interested to hear from you.

Mr Paul: I can appreciate there are issues about the right of the individual to work on Sunday, and I think this government has done some good things, in my opinion, with regard to labour practices, in protection of the worker, health and safety and many other areas, and I support all that. I think the good legislation—

Interjections.

Mr Paul: Whomever's it is. I think there is good value in that. I must tell you today—and I represent big business to this committee perhaps—that big business is more susceptible to the will of their employees than little business, because I cannot run 280 stores by myself. The only way we can run those stores is with good, effective employee relations and practices. Therefore, I think there are ways to buffer that issue, which has been one of the main issues of this government, and still provide the kind of open environment that will allow all of us to have freedom of choice. I guess that is my issue at the end of the day.

1610

Mr Carr: Thank you for taking the time to do that presentation. It was well thought out. I was looking at the first page, with regard to the 5% loss in sales, and I was wondering if you could tell us, if it is public knowledge, where your particular company stands now. Are you in a loss position, if that is public knowledge, and if so is it bad?

Mr Paul: Our company is not in a loss position for a number of reasons. The first reason is that we really are offering value to the consumer and in these difficult times many consumers are coming to us because they have no choice. We define our customers as two types of customers, apropos Mr O'Connor's remark which I just caught the edge of. We have them defined as no-choice and choice customers. We have an awful lot of no-choice customers at Bi-Way. If they do not shop with us, they go to welfare. That is their next opportunity. On the other hand, we do have some choice consumers, so I guess the economic times and perhaps some of the things we are doing are contributing to our success in the near term.

I am going to give this committee a retail lesson, if I may be so candid, and give you some numbers because these are real numbers, not on our business, but on survival. The number one competitors in this business, who are all coming from the US, have operating overheads as a percentage of their total business of 20% or less. There is not one Canadian retail operation, exclusive of food—I am not talking about food operators—that comes within 50% of that. If you had all your money invested in this province in a viable retailing entity and through legislation you are going bankrupt—a US competitor is allowed to move into your marketplace, open up a business here, run it however it sees fit, not worry about the six or seven days, have a 10 to 1 economic advantage on top of it all, and can be predatory-pricing just south of the border. What are you doing to us today? You are not allowing us to compete.

I think this government has to listen to industry. I will be happy to sit and open my books to you on a private basis and let you understand retailing. When we talk about the word "survival," sometimes at this committee and in what appears in the press, I get the feeling you think we are just using that as cannon fodder. I assure you that the malls are running today with a 20%—not quite a 20%, but almost a 20%—vacancy rate. The reason we do not really know what the vacancy rate is is that some people are sitting in the malls not paying rent, because the landlords would rather have a store that is filled than a store that is empty. We believe that is going to go up, and if that goes up, the tax base erodes, and that is the issue.

Mr Carr: It seems you have thought this out very well and you are a very intelligent individual. Why do you believe the government is proceeding if so much of this legislation is hurting you? What is your feeling of why they are proceeding in this manner that will hurt companies like yours?

Mr Paul: That is a difficult question for me to answer. Certainly I think there is an issue about the quality of life and the family structure, and certainly in difficult economic times we see it breaking down all over the place.

We are a company that probably sees it as quickly as anybody. We see it in our stores. I see it in shoplifting. I just see it in the nature and the number of people we are catching every day in our stores, and there are some pretty sad cases. They are not shoplifting because it is a frivolous thing. In many cases they are shoplifting necessities, and that is sad. So I appreciate the issues of social fabric in family life. Without a decent economic base there will never be a common pause day. That day will be used for the things you read about in the paper every day, which are not pleasant, because when the economic stress becomes so great people react in ways they never thought possible.

Mr Carr: One of the concerns the government has put forward is for large organizations like yours. It feels it has to protect the workers of large organizations, and we have heard from some of the other groups, your parent corporation, that talked a little bit about how they tried to address that. The perception from the government is that it does not have to worry about the smaller companies, that it is the big, bad large businesses. I was wondering if you could enlighten us as to how you see protecting your employees. You seem like a reasonable person who is genuinely concerned about employees.

Mr Paul: I do not know who claims credit for the bill, but despite that, there is good labour legislation with regard to safety, etc, and things of that nature can certainly be implemented to make sure that the rights of the workers are protected as far as Sunday is concerned. I have no issue with that because I believe we will not have a problem getting people who are industrious, who need a second income or a third income, or are students, or whatever it is, and will want to work. If we cannot get people because of that, then I will tell you what will happen ultimately: We will pay more.

Mr Carr: You would never force anybody to work on Sunday.

Mr Paul: It is a market economy.

Mr Carr: You would never force anybody to work on Sunday against his wishes.

Mr Paul: We believe our employees are five-day-a-week employees, whoever they are, our managers, assistant managers, whatever, and we just do not do that. We have not done it and we did not have any trouble finding people while we were allowed to remain open.

Mr Fletcher: Thank you for coming today. I am just looking at a couple of items. One is that you believe in freedom of choice. My choice is not to work on Sunday. You do not have a problem with that?

Mr Paul: Not at all.

Mr Fletcher: If I were your employee and you asked me to work Sunday and I said I would not work Sunday—

Mr Paul: Absolutely not; I would respect that.

Mr Fletcher: I am glad to hear that. Another thing is on the next paragraph, that you found no information that indicates Sunday shopping or the lack thereof has a beneficial or a negative impact on the family unit. Let me just quote from Loblaws, the food chain:

"The store business"—this is their quote, not mine—"is not a nine-to-five, Monday-to-Friday job. Converting it to a round-the-clock, seven-days-a-week environment will no doubt negatively impact our employees' obligation to family and religious beliefs and ultimately strain the employer-employee relationship. The traditional family is being buried and I would suggest that Sunday opening will be the shovel that digs the grave."

Perhaps I can quote once more from Lynne Arling, president of the Consumers' Association of Canada—Alberta Branch:

"The biggest argument against Sunday shopping is the social cost. One working parent on Sunday means families cannot be together for meals or activities. Surveys found senior citizens in nursing homes get fewer visits and fewer outings with their families in areas where Sunday shopping is allowed."

I am getting this information from people—as I said, Loblaws and also in Alberta where they have wide-open Sunday shopping—that there is a detrimental effect on the family unit. As you said, you see it all the time. You will see it in your business. There is an effect.

If I can carry it a little further, when we have a lot of students working, surveys have already shown that for students who are working, either after school or during the week, their marks are not as good and their performance level is down.

Mr Paul: You are a little younger than I am, but—

Mr Fletcher: Not that much, I will bet.

Mr Paul: —let me just make two comments to you.

In this society there are all kinds of people and I guess we can take them from the cradle to the grave. The reality is that the student who is financing his education is going to be concerned about his job and his marks and everything else, and the student who does not want to study and wants to do drugs or whatever else, or steal or shoplift—I cannot prevent that. I think good parental guidance and the right kind of upbringing can do that.

My issue in making the remark was that I have seen no statistical basis. I have looked at the research in the US, and everywhere I can find it, and I could not find anything substantive that showed the social fabric of the area, the country or whatever was changed dramatically as a result one way or the other. I am just saying to you that I could not see something substantive in a piece of research that is well documented anywhere.

Mr Fletcher: I was just looking at surveys, not statistical research that was done.

There was one other thing you alluded to when you talked about shoplifting. We open up Sundays. Does that mean we will have to increase the number of police on duty to handle the increase in shoplifting, which could occur because now you have seven days to shoplift instead of six? Public transportation: In the city I come from we do not have Sunday bus service. If we have to put in Sunday bus service to allow people to travel to the stores—

Mr Paul: Let me ask you the question: How is it that so many people without cars, transportation or any other means, can shop in the US? The stats that just came out

today or yesterday—do you know how many million visits there were to the US last year?

Mr Fletcher: From Canada.

Mr Paul: Yes.

Mr Fletcher: These are people who are driving down.

Mr Paul: It was 52 million.

Mr Fletcher: I understand.

Mr Paul: Up 30%. I cannot remember the exact stat. I cannot remember if that was a first six months or a first nine months number. It is mind-boggling.

Mr Fletcher: My point is if there is wide-open Sunday shopping in my city and we have to increase bus service, my taxes go up.

Mr Paul: If you do not have the income there and you have the income in the US, you are not going to have a tax base. Which would you prefer to have, a tax base or no tax base? Because if they are south of the border, you have no tax base. I would rather have them and have a tax base. At least I could support my bus drivers, my workers and my society for all the other reasons. That is my concern, Mr Fletcher.

1620

Mr Fletcher: Yes, but what I am saying is that throughout Ontario municipalities are going to have to pick up the costs of increased bus service, of increased policing, and day care facilities are going to be needed.

Mr Paul: Who do you think the municipalities have had their largest tax increases on? Who do you think the municipalities are taxing?

Mr Fletcher: Me.

Mr Paul: No.

Mr Fletcher: Yes.

Mr Paul: No.

Mr Fletcher: You are darned right.

Mr Paul: Absolutely not, sir. I beg to differ.

Mr Fletcher: Check my tax books.

Mr Paul: I would suggest to you that the retail industry and the landlords and the property owners have had the highest tax increases to support the services you are talking about.

Mr Fletcher: I am a property owner.

Mr Paul: In fact, I can give you a stat. Can I give you one stat?

Mr Fletcher: I will come back with a stat.

Mr Paul: Okay.

Mr Fletcher: Go ahead.

Mr Paul: We have communities in Ontario where the tax base went up 186% last year. They might have been unusually low before that; I do not know.

Mr Fletcher: The cost to the city of Mississauga to provide services to satisfy Sunday shopping is going to be \$700,000 per year.

Mr Mills: Thank you, Mr Paul, for being here this afternoon. I just want to take up on what my friend and colleague said earlier, that we are here to listen. I have

made a point at every presentation to say how we are listening here and I represent one member of the government caucus. I say it again, we are here to listen. However, there are some common principles that are not negotiable. One is the common pause day. That is not negotiable. The rights of the retail worker to refuse work is not negotiable and the tourism exemption is not negotiable.

On the regulations, whatever they may be, and whatever we may decide about sizes of stores, I would say we are listening. That is what we are here for, because if we were not here to listen, it would be a mockery of this exercise. I remember that when this Sunday shopping group travelled the province last time, one of our members had a duck or a chicken or something, and he said we were not listening, that we were here but not listening. Sir, we are listening.

I have to make that statement, because Mr Sorbara asked it on behalf of Mr Paul.

You do not know me, but I am very cagey on spending a dollar.

Mr Paul: We all are these days.

Mr Mills: I listen here to the cost of prescription services, and that is always a sore point in my mind. Maybe you can help me. Is there some sort of rule set in place among pharmacists that the dispensing fee is universal, be it Shoppers Drug Mart, Drug World or wherever, and that the flexibility is in the price of the drugs? I think that is important, because we are trying to reduce health costs, as you probably know.

Mr Paul: I guess you are dealing with a subject that is near and dear to my own heart.

Mr Mills: Yes, I presumed.

Mr Paul: Let me just tell you how I feel about it. There are no regulations governing pricing per se. There is a pharmaceutical association in the province and that governs the practice of the individual pharmacist. Therefore, whatever you establish as your prescription fee is what you can charge. That is what you charge the public, and that is the same fee the government will pay you on supported fees.

What I am saying to you is that because the Ontario College of Pharmacists is a self-serving body, and the people on that body are very self-serving to a number of the major retailers, Shoppers Drug Mart being one of them, it is obviously in their best interest to make sure the prescription fee, which is a very insignificant part of their profit equation, is pushed to as high a level as they possibly can.

On the other hand, in my particular business, I sell a different assortment. I sell prescription fees. I have health and beauty aids and things. I also sell apparel in my stores. It is a combination store. Therefore, I believe that in a free market economy not governed by that regulation I could reduce the cost of prescription fees 50%.

Today the government is paying because Shoppers Drug Mart sets the precedent. I do not know what the exact rate is today, \$9.95, I believe, or something like that.

Mr Mills: It is \$9.65.

Mr Paul: Okay, \$9.65 for every prescription filled in this province. I tell you, sir, that is patently ridiculous. I do not know how many prescriptions you pay for annually,

but multiply that by \$5 and that is what you could save, in my opinion. That is a significant number.

The Chair: Thank you very much, Mr Paul. I am sure your presentation has been most enlivening. It certainly seems to have got a lot of response.

Mr Sorbara: I have a brief point of order arising, Mr Chairman, from the questioning of my friend Mr Fletcher of the witness. Mr Fletcher, for the second time, has read a quote which he attributes to Loblaws. Since his second reading of that quote, I have checked with representatives of Loblaws. I want to advise you, sir, that Loblaws is currently a member of the Committee for Fair Shopping and is currently taking a case to the Supreme Court of Canada which challenges the constitutionality of the Retail Business Holidays Act. The position Mr Fletcher is purporting to attribute to Loblaws is a quote from some five or six years ago and is no longer the position of Loblaws. I think it is inappropriate for him to continue to use that quote with the intention of suggesting to the general public or to this committee that the position of Loblaws in Ontario is as reflected in that quote.

Mr Fletcher: Mr Chair, on that point of order: I have a presentation from the United Food and Commercial Workers International Union. It was given to the Scarborough-Agincourt Provincial Liberal Riding Association in 1990. That is where I am getting it from.

The Chair: Our next presentation is from the Ontario Committee for Enforcement of Holiday Closing Laws. We have no presenter? I would suggest that we recess for five minutes, and if the delegation does not appear that we adjourn until tomorrow morning.

The committee recessed at 1628.

1636

ONTARIO COMMITTEE FOR ENFORCEMENT OF HOLIDAY CLOSING LAWS

The Chair: I would like to call our committee hearings back to order. Do we have a presenter? Mr Adams, from the Ontario Committee for Enforcement of Holiday Closing Laws? Mr Kingdon would like to make a short note for that committee. My understanding is that it is not a presentation, though.

Mr Kingdon: Thank you, Mr Chairman, ladies and gentlemen. I am a member of the Ontario committee and Bud Adams was to have been here. Whether he is hung up in traffic or what I cannot tell you. I have tried to reach him by phone, and of course it is 4:30 and like all hardworking people he has gone. At least, the office is closed. So I am in the position of apologizing for the fact that Bud is not here, and perhaps there will be a time later on in the proceedings when he might address this committee.

The Chair: Thank you, Mr Kingdon. Any further business?

Mr Sorbara: It is regrettable we are not going to be able to hear at this point from Mr Adams, but we have heard from the Premier and he has announced that there is going to be a cabinet shuffle tomorrow at 9, so I want to say how nice it was to work with Mrs Haslam on this committee and wish her good luck in her new responsibilities

as the Solicitor General, and Gord, sorry, and I want to say to Mr Fletcher, sorry you did not get considered this time around.

Mrs Haslam: We want to extend our condolences to you for not having a post either.

Mr Mills: I would just like to say, Mr Chairman, that quote about my colleague Karen is in the Toronto Sun, and you, as a baseball man, should realize that all the trades that happen are never mentioned in the press. Borders is supposed to be going to the Expos tomorrow, but that will not happen.

Mr Lessard: I wonder if we can get the agreement of all the parties that in the event that Bud Adams from the Committee for Enforcement of Holiday Closing Laws is available, the committee does agree to hear him at a time when it is appropriate to schedule him.

The Chair: Providing there is time available.

Mr Lessard: Yes.

The Chair: The clerk asked me a very simple question, which is, should he then jump ahead of other people who are presently on the waiting list?

Mr Sorbara: I would have thought not, Mr Chairman.

Clerk of the Committee: I have not been back to my office yet today, but my understanding from my office is that there is now a waiting list. There are more messages sitting in my office of people who want to get on to this schedule. At this point this schedule is jammed.

Mr Sorbara: I would just say on behalf of our caucus that while we really would enjoy hearing from Mr Adams, we think he should be considered along with anyone else, in that it would be inappropriate to bump someone from the agenda or rearrange the waiting list to accommodate Mr Adams.

Mrs Haslam: If he does show up, what about asking him for his written—

Mr Sorbara: Anyone can submit written documents.

Mrs Haslam: Yes, we have written submissions but we do not have his. What I am saying is, please be sure we ask for his written material.

The Chair: We resume at 9:30 tomorrow.

The committee adjourned at 1640.

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Wednesday 31 July 1991

Journal des débats (Hansard)

Le mercredi 31 juillet 1991

Standing committee on administration of justice

Retail Business Establishments
Statute Law Amendment Act, 1991

Comité permanent de l'administration de la justice

Loi de 1991 modifiant des lois
en ce qui concerne
les établissements de commerce
de détail



Chair: Drummond White
Clerk: Lisa Freedman

Président : Drummond White
Greffier : Lisa Freedman

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday 31 July 1991

The committee met at 0937 in committee room 1.

RETAIL BUSINESS ESTABLISHMENTS STATUTE LAW AMENDMENT ACT, 1991

LOI DE 1991 MODIFIANT DES LOIS EN CE QUI CONCERNE LES ÉTABLISSEMENTS DE COMMERCE DE DÉTAIL

Resuming consideration of Bill 115, An Act to amend the Retail Business Holidays Act and the Employment Standards Act in respect of the opening of retail business establishments and employment in them.

Reprise de l'étude du projet de loi 115, Loi modifiant la Loi sur les jours fériés dans le commerce de détail et la Loi sur les normes d'emploi en ce qui concerne l'ouverture des établissements de commerce de détail et l'emploi dans ces établissements.

The Chair: I would like to call our committee hearings to order. These hearings are into Bill 115, the Retail Business Establishments Statute Law Amendment Act, 1991, and our first presenter this morning is Mr David Shepherd from the Scugog Ministerial Association.

Mr Sorbara: Mr Chairman, if I might just for a moment, as our first witness comes up to the committee table—

The Chair: Perhaps I could allow our first witness to sit down.

Mr Sorbara: Sure, certainly. I am just going to be a moment or two. It is all very informal here. You need not worry. We just have a little bit of politics to take care of.

The Chair: Mr Shepherd, I will introduce you to the committee members in a few moments, after Mr Sorbara's comments.

Mr Sorbara: Mr Chairman, as you know, we have just received word of a very major reorganization of the executive council of the government. Our party certainly offers best wishes to Mrs Haslam, who just yesterday was a mere mortal sitting on this committee analysing Bill 115.

More important perhaps for the purposes of our work here is that we have had the appointment of a new Solicitor General and Minister of Correctional Services in the person of the member for Oshawa, Mr Pilkey. I know Mr Pilkey, prior to his election to Parliament, had been a mayor of a municipality in the province of Ontario. More important even than that, he may well have significantly different views on the matters we are discussing here today under Bill 115 than his predecessor, whom we wish well as well, as we do all the new MPPs who have been appointed and those who are now leaving the executive council.

I would suggest that in light of the appointment of Mr Pilkey, this offers a fresh opportunity to consider the matter within a context. I am not suggesting the government is going to wholly abandon its position, but I think it would be appropriate under the circumstances if we urgently invited

the new minister to come before this committee to express his views on how we ought best to regulate the business of Sunday shopping and give all of us as members of this committee an opportunity to examine him, question him and have his views on the record of the committee.

The reason why I say that is that in my own experience, through five and a half years on the executive council of the province, although policy shifts were not immediately evident on day one of a cabinet shuffle, certainly the appointment of new ministers in new ministries often, if not always, indicated a new direction for that ministry and the matters for which it is responsible.

So I would ask you and I would ask the agreement of the committee that we urgently send an invitation, through you as Chair, to Mr Pilkey to come and testify. If that means that we have to sit an extra hour on one of our days or we have to forgo lunch and have him come here during the lunch hour or whatever, I think it would be absolutely essential that we do that. I would move that you issue an urgent invitation for the minister to come and testify before the committee.

The Chair: Is that a motion?

Mr Sorbara: Yes, that is a motion.

Mr Fletcher: We have no problem with that. How about we wait a couple of weeks so that he can be briefed on what is going on in his ministry, and closer to the end, when we are back in Toronto, perhaps that would be a time to get Mr Pilkey here. We have no problem with it, but just out of courtesy, give a person some time to get into the ministry, to find out what is going on. I know you said urgently, but—

Mr Sorbara: I would just say to my friend that we would leave the timing of that to Mr Pilkey, the Chair and our clerk to arrange a suitable time.

Mr Fletcher: It was the word "urgently."

Mr Sorbara: Yes, an urgent invitation. The reason I said we should vary our schedule is that we were advised by the clerk yesterday that our time is fully booked now. We have witnesses to fill all the time available. We could, if we chose, open up some additional time. I personally would like to hear from Mr Pilkey as soon as possible. Certainly, he will want to spend the next couple of days being briefed by his ministerial officials, but I do not want to hear the views of his ministry on this. I do not want him to come and tell us what his ministry thinks of Sunday shopping. I would like to hear from Mr Pilkey. So I would like the unwashed Pilkey, if you like. I am sure he will want to scrub himself up a little bit and apprise himself of a variety of issues. If it needs two weeks, that is fine. If it needs three weeks, that is fine.

We are in the midst of hearings. These hearings are very important. We have a lot of witnesses. We see already

that the matter continues to be controversial. I think the cabinet shuffle offers us an opportunity to perhaps stake out some new territory on this very difficult subject. This is the gazillionth time that a parliamentary committee has had hearings on Sunday shopping. It seems always to be to the same effect. Perhaps this time, with a new cabinet—Lord knows, it cannot be worse than the last cabinet—and a new minister, we might have a new beginning on this subject.

So my motion is on the table, but I did not mean to say that he had to testify within the next day or two. We will have to make those arrangements. We cannot subpoena him. We cannot require him to testify, but we can invite him urgently to come here. This is now his bill and he has carriage of it along with his parliamentary assistant who, I reiterate, should be sitting up here and not over there.

The Chair: I think we have already discussed that with Mr Wessenger in the past.

Mr O'Connor: I am sure the clerk will work in her normal expedient fashion. I do not think you need to direct the clerk to be urgent in handling these matters. Because this particular legislation has three ministers involved in it and two ministers are still involved in it—no change has been made—perhaps we need not worry quite as much as the fears Mr Sorbara seems to be sharing with us today or his apprehension. I think in good time he will come before us and he probably would welcome the opportunity too. So I look forward to when he does come and I support Mr Sorbara's motion.

Mr Carr: I just wanted to take a quick minute to wish the new minister luck. I know he hopes it will be passed on to him. Also, with some regrets, I say goodbye to the former Solicitor General, who I know worked hard. I think I can appreciate what Mr Sorbara said at one of the other hearings: how you can be in cabinet one day and it all ends very quickly. So we wish him the best of luck.

I would encourage that we do get a chance to sit down with him at the most convenient time possible. Mr Pilkey, as you know from his background in municipal affairs, should be fairly conversant with this issue because it has been going on for such a long period of time. I would look forward to getting a chance to hear his views, because quite frankly I think it may change. The government has said it is prepared to listen to some of the presenters and change things, and this will give them a good opportunity to do it. A new minister coming in can say this is the new direction. So I look forward to it.

The Chair: Thank you, Mr Carr. Any further discussion? All in favour of Mr Sorbara's motion? Opposed? Carried.

The clerk suggests that either the 15th or the 29th of August is possible. It will probably require sitting early in the morning, but we can certainly extend that invitation and work out the details at a later point.

Mr Sorbara: My preference would be the sooner the better, because the 29th is very near the end of our hearings. If he chooses the 29th, well, he chooses the 29th. I would like to hear from him as soon as possible. But again, let's leave that to you and to the clerk and to the minister.

The Chair: I am not sure the timing is all that pressing in terms of Mr Pilkey. He rarely comes unwashed.

SCUGOG MINISTERIAL ASSOCIATION

The Chair: My apologies again, Mr Shepherd. The workings of these committees usually run more or less smoothly.

Mr Shepherd: No problem. I have been on a few myself.

The Chair: Basically you have half an hour for your presentation. Typically that is divided between your presentation time and about half of that time for questions from the committee members, who I am sure will have a lot of vital questions coming from your presentation. Please feel free to start when you are comfortable.

Mr Shepherd: I have handed out a copy of the brief, presented by David Shepherd, secretary-treasurer of the Scugog Ministerial Association. I think the thing to do is to just go through it.

The introductory part just speaks of the Scugog Ministerial, made up of the clergy of the congregations in the Scugog township, which is the area around Port Perry, and it is Anglican, Baptist, Christian Reformed, Pentecostal, Presbyterian, Roman Catholic and United churches. We meet every month except for the summer. We have some ministries that we co-operate in through the area, and we get together for a combined worship service once a year, and then we do some discussion and prayer together.

The next section, the position of the Scugog Ministerial, comes from discussions we have had. I am here as a result of being contacted by Gord Mills's office about three weeks ago from a letter we wrote to them last September. In that letter we supported the New Democratic Party's stand that the provincial government bears the responsibility of passing legislation with regard to Sunday shopping. We also supported the New Democratic Party's stand that this responsibility should not be delegated to the municipalities. We believe the NDP took this stand when the Liberal administration passed such legislation, which delegated the responsibility to the municipal governments.

On the whole I could say that the Scugog Ministerial opposes the extension of Sunday shopping. We support the concept of a common pause day. We support the stand that people should have legislated freedom from their jobs to enjoy their family and their loved ones and simply to relax. We believe that on the whole the common pause day should fall on the same day for everyone so that families and loved ones have the opportunity to get together, the day being Sunday. It is a 1,700-year-old tradition of Christendom, which is when the Christian church became the official church of the Holy Roman Empire, which is Europe and the area around that. It is a long-standing tradition that the day falls on Sunday.

The legislation mentions a common pause day, but there is more than a common pause. I am quoting from the explanatory notes, and the same language appears in the bill. In the explanatory notes it says:

"Part I of the bill establishes the principle that retail business holidays are common pause days and that municipalities should not use their exemption power to permit

retail business establishments to open on holidays except to maintain or develop tourism.”

0950

What I want to draw your attention to here is that the words “holiday” and “common pause day” appear very close together, but they are not the same thing. The meaning is not the same. “Holiday” means holy day, which is a time set aside for holy pursuits. I want to take you back through a little bit of a Bible study. In the Bible the Ten Commandments appear in two places, once in the book of Exodus and once in the book of Deuteronomy.

In Exodus it says:

“Remember the Sabbath and keep it holy. You have six days in which to do your work, but the seventh day is a day of rest dedicated to me, God. On that day no one is to work—neither you, your children, your slaves, your animals, nor the foreigners who live in your country. In six days I, the Lord, made the earth, the sky, the sea, and everything in them, but on the seventh day I rested. That is why I, the Lord, blessed the Sabbath and made it holy.”

It dedicates a day to God. It gives the opportunity for the faith community—these were people who have left slavery in Egypt and were now forming a free community out in the desert—it gives them the opportunity for holy pursuits. For those who are not within the faith community it gives the opportunity for rest and relaxation. The rationale in the Bible also says God took a break from work, and I think there is a strong implication that if God needs a break, then you and I need a break too.

The commandment stated the second time, in the book of Deuteronomy, is the same commandment, but there is more reasoning. It says:

“Remember that you were slaves in Egypt, and that I, the Lord your God, rescued you by my great power and strength. That is why I command you to observe the Sabbath.”

The issue in the book of Deuteronomy is freedom from slavery. If you are going to be a slave for somebody else, you are a slave, but if you are a slave to yourself, then you are still a slave. We are quite capable of enslaving ourselves and you know that from the major health problem of stress that people impose upon themselves. So the commandment gives us freedom from servitude to others, but it also gives freedom from servitude to ourselves. It also says, when it talks about giving rest to other people, and even the animals, that we are not to impose servitude on other people. So the issue is much one of freedom.

When you put holy day and common pause day together, I would encourage you to hang on to the common pause day, but I would like to stress the meaning of the words “holy day,” that it means a day set aside for rest and it is a foundation of freedom.

We are concerned about the outcomes of Bill 115, and one is that people will be compelled to work Sundays whether they want to or not. I think a lot of the current legislation is based on the idea that people have the right to refuse to work Sunday without fear of losing jobs or suffering disciplinary action.

Within and around the ministerial, and just about everybody I have talked to, I have not yet met anyone who says this provision could possibly be enforceable. I cannot see

how it can be practical. I do not see, nor does the Scugog Ministerial, how you can make such a provision work, even if you legislate it.

There are many employers who respect the needs and convictions of their employees. This kind of employer needs no legislation at all. They respect their employees and they do what is right by their employees. But anyone who is determined to circumvent it would have, we believe, little problem. When you set up legislation or rules, you automatically set up a challenge of how to either circumvent the rule or break the rule and still get away with it. With the situation here, the need of the enforcement machinery, it would be just so expensive and so cumbersome that I do not know anyone who thinks it could possibly work.

I know that, listening to a news report a couple of weeks ago, there was an international meeting on justice, and the justice system of Ontario was a bit of an embarrassment to us because of the cases thrown out of court involving violence and so on that could not even get to court for the backlog. This legislation, I believe, is well intentioned but unenforceable.

We see that the legislation as it stands leads to the erosion of the common pause day, which is what we are after in the first place, by giving the municipalities the right to pass bylaws which designated applicants for tourist status as tourist businesses. In other words, as I read it—I got the legislation on Monday—the business applies to the municipal council for tourist status, the municipal council grants or does not grant tourist status, and that is it. It becomes effective on the passing of the bylaw.

At the same time I did not see anything—maybe I have missed something in the act—whereby municipalities revoke tourist status for businesses that do not qualify but currently enjoy it.

It just opens the way to more and more tourist-designated businesses. In effect, I believe, it also reverses the stand the New Democrats took in opposition. When the responsibility was delegated to municipalities, the New Democrats opposed that. It seems to me that what is proposed in the bill is simply a more cumbersome way of saying the same thing.

I want to draw attention to the responsibility of the government to govern. I know that in every congregation, perhaps not every Sunday but many Sundays during the year, we pray for the people who hold government responsibility because this is one of the very responsible tasks and one of the great tasks, and the tradition of the church has been to encourage prayer and support for the civil government. So we do this out of respect for the members and the heavy responsibility they bear. Within every Christian church the good Christian citizenship involves good citizenship of the domain you are in, the country and the province. We are praying that the government governs, so we are appealing in general terms to the provincial government to govern, and this means to set the standards within the area of provincial government's responsibility.

I want to go to the area of common sense, and again I have had wide consultation on this within and without the ministerial and I do not know anybody who does not think they can spend as much money in six days as they can in

seven. We do not spend very much money on Sunday and it is two weeks to payday. Yesterday evening my wife and I were discussing how we are going to make it to payday.

The notion that seven days of shopping will result in a one-seventh increase in commerce, or any increase in commerce or business, really does not make any sense to too many people. What it does mean is that the same amount of commerce is done, only you take one more day to do it and deny people the opportunity to take a break.

The final part of this brief sets out, I think, a fairly clear alternative. It comes through the Beatitudes and it says simply that no one can be a slave of two masters, or no one can serve two masters. In the Bible you choose between serving God and serving money. If you serve God, then this makes money a tool in the service of God. If you decide to serve money, then you are going to fix up your gods and arrange your gods to serve your money.

When I look at the material I find some descriptions of the tourist industry which say that "tourism generated \$15.5 billion in revenues in Ontario." That is one quotation. Another one says, "The most significant amendment we are proposing will provide province-wide criteria for an exemption to holiday retail closing requirements for tourism-related businesses." Finally, it talks about "the tourism industry; an industry which is one of the cornerstones of our provincial economy."

As you write legislation, we hope and pray that you choose not to serve money. We believe your deepest convictions would be serving God. We appeal to you to search the depth of your conscience for what you value, for the value of freedom and people, a time for people to lift up their hearts in a way of their choosing and, quoting from a song we are familiar with, "A place to stand and a place to grow." We appeal to you to put these considerations in the legislation.

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Mr Sorbara: I do not think there is any doubt that the whole history of the regulation of retailing, of store openings on Sunday in Ontario, is based on the strong, deeply rooted Christian heritage of the province and the foundations of those laws emerge right out of that ethic which, as you point out in your submissions, go well beyond Confederation and the writing of laws in Ontario.

An objective analysis would say that this effort to try and create a common pause day is yet again the next expression of that, but Ontario since that time has changed dramatically. That is to say, not only do we continue to have strong Christian traditions, but we have a number of other religious traditions that are alive and well and part of the foundation of our culture in the province and in Canada. At the same time we have a strong secular, non-religious or, in some respects, atheistic tradition in Ontario that needs to be respected.

I agree with you that the best way to live one's life is to find one day in seven to rest. Why do you think a modern state like Ontario, a modern jurisdiction like Ontario, ought to choose between those who would see their Sabbath on Sunday, those who would see their Sabbath on Saturday and those who would see their Sabbath on Friday? Why

would you continue to put the responsibility on the state to legislate that? Finally, why would you restrict the legislation to the retailing industry? Is it not true that if we really wanted to observe the kinds of things I think you are genuinely and powerfully arguing for, we would call for no work to be done in retailing, in manufacturing and the service industries on the Sabbath?

Mr Shepherd: I would like to take those one at a time. The first one was the Sunday? As I am coming as a representative of the Scugog Ministerial, which is a Christian group, appealing to you because you said your legislation cannot come out of one religious tradition because that is not the way the world is, does this make sense? You are saying it does make sense that there be a common pause day.

Mr Sorbara: No, I did not say that. I said we are expressing a bias here for the Christian Sabbath in a society that has good, strong Christian traditions but strong Jewish traditions as well; Muslim traditions as well now, and also secular traditions. Why should we continue to choose the Sabbath of the Christian tradition?

Second, why should the state do that? Why cannot the individual identify his preference and, much like an orthodox Jew, simply not undertake any work in complete compliance with the Scriptures you quoted?

Mr Shepherd: The reason a common pause day should be one day of the week, be it Friday sundown to Saturday sundown, which was the original Sabbath, or Sunday or Wednesday—say Wednesday noon to Thursday noon—is so that people have the opportunity to get together. If you have a family and everyone has a different day, then you do not have the opportunity to get together. Fundamental to the idea of a common pause day is that it is common. Whether it be Sunday, as far as I am concerned, is up for negotiation. There is a 1,700 year tradition of that, going back to the days of Christendom when Constantine became the first Christian ruler of the Holy Roman Empire. There is lots of tradition behind Sunday, but I do not know of any reason other than it is tradition.

Why it falls upon the legislators of the province to legislate is that this is the government of Ontario, this is the government of the realm. Nobody else can do it.

The Chair: Thank you, Mr Sorbara. I am sorry, we have run out of time. Mr Carr?

Mr Carr: Yes. First of all, I want to thank you for your presentation and also for the part in here that says quite often you pray for the NDP.

As we sit back and reflect, one of the questions I have would be along the same lines of what Mr Sorbara asked. If we are going to say that as a result of religious convictions we need to have Sunday off, is it based on the workers or would that also include the people who would then do shopping, who see it as a leisure activity? You are talking now specifically of the workers. Would it be okay for you if people themselves wanted to go out and shop?

Mr Shepherd: When you say "out of religious convictions," those are the religious convictions of Scugog Ministerial. We recognize they are not everyone's religious convictions. When you are legislating it has to be on the basis of what makes sense. We are saying that in the religious

tradition there are things in here that make sense. We believe it makes sense to anyone. When people shop, when you have buyers, you also have to have sellers, and many of those sellers are employees.

This is not directly on Sunday shopping, but there is a great deal of child labour going on now. One of the original intentions of the original Lord's Day Act—there are Lord's Day people here who are more qualified than I am, but one of the things was to set children free from labour. When you are opening places to sell, then these places need to be staffed.

Mr Carr: But what you talked about with the day of rest, when you listed the fourth commandment and so on, is it just for the workers? It is not for somebody who went out and shopped? You are not saying that people should not be going out to shop as a leisure activity, that they should stay at home or whatever? That is what I was trying to get at.

Mr Shepherd: Yes. The original intent was to set everybody free from work. On a common pause day I take a pause. If I take a pause and you work for me, that means you take a pause too. You cannot say, "This is my pause day; you work." It seems to be consistent.

Mr Carr: That is where I think some of the other people have been arguing that if that is the case, then why do we have Blue Jays games where the parking lot attendants, the hot dog vendors, the baseball players—in fact, I remember when I played hockey for a living. I played Christmas Day in Sudbury in the Ontario Hockey Association, which is probably the most religious day in the calendar. I did not like that because I did not get the chance to go home. In fact, factories work Sunday, car manufacturers have seven-day shifts when things are going well and so on. What would you say to somebody who said: "Why are you just picking on the retail workers? Why don't we shut down the baseball and the theatres where people are working, the airlines and the hotels?"

1010

Mr Shepherd: I cannot speak for the Scugog Ministerial on this one, because we are opposed to further extension, but we take a point in time now and my personal conviction is we have gone way too far on this already. I think there are people who are being compelled to work right now. You could not get home, you could not be with your family on a religious day. Well, you could have been with your family, but you had the choice between being with your family and being on the team. If you were home with your family, enjoying your family, you would have been blacklisted by the team. That is an awful lot of pressure to put on a young hockey player. So my personal conviction, just speaking for myself, is that we have passed a point. When we talk about erosion of the common pause day in the brief, this is nothing new. This has been going on for a long time.

Mr Carr: As a matter of fact, as I remember, we won 3-1. It was the best game I ever played. If I had played more games on Christmas Day—

Mr Shepherd: That was the compensation. What about the folks who lost?

Mr Mills: Thank you very much, David, for being here this morning on behalf of the Scugog Ministerial Association, which represents a large number of churches and the congregations thereof in my riding. I am very happy to see you here and to talk to you again after almost a year, when we discussed some of these very things during the election campaign.

Ministers have a particular role in society and today we live in a society that is fraught with divorce, with stress, with a general malaise that runs through families because of the time and the day we live in. I am just wondering, David, if from your experience as a minister, counselling people probably, you can expand. How important do you see the common pause day in our society today, in so far as renewing and keeping families together is concerned?

Mr Shepherd: It is a hard question to answer because so much of it is gone. It would certainly make it easier for families to be together. It would relieve the pressure of other alternatives. If people did not have to work, then they could be at home with one another. That does not guarantee they would be. You cannot guarantee what people are going to do. You cannot impose on people just because you give them the liberty to do it.

The original legislation, which goes back 3,400 years or somewhere thereabouts, says the community of faith takes the day and the sojourners among you can do what they like. It is a day that people could use for family pursuits, if they so chose, or if not, social pursuits. But I think it would help.

Mr Mills: I know you have a few qualms about some of the legislation that is in this amendment, but basically I believe you support the concept of this amendment to Bill 115.

Mr Shepherd: The common pause day concept, yes.

Mr Mills: The common pause day. You feel we are going the right way when we are trying to legislate freedom for people to have that day together.

Mr Shepherd: Yes.

Mr Mills: And you, sir, speak for the Scugog Ministerial Association and all its churches here today.

Mr Shepherd: Yes.

The Chair: Thank you very much, Mr Shepherd.

HUDSON'S BAY CO

The Chair: Our next presenter is Mr Agnew from the Hudson's Bay Co. I apologize for our tardiness. We had a little bit of business at the outset this morning.

The typical presentation, sir, is that you have half an hour. You can use that time however you wish. I am sure many committee members will have many questions for you, so could you leave some of that time for them for that purpose.

Mr Agnew: I think I can help you pick up some of the time you might have lost this morning. I will not take half an hour. I think our views are very well known to the committee in total, mainly because when this started in the fall of 1986 we were there and are still here.

As many of you know, the Hudson's Bay Co has believed for some time that Ontario does not need any retail legislation for Sundays. I suppose the last nine months of

Sunday shopping pretty well proved that from a couple of points of view, not so much from our own business viewpoint, but certainly that the consumers at large viewed it as an interesting thing. The longer it went on, the greater it got.

I think it was widely reported in the press, certainly on Monday, and I will reiterate it for you, that in the nine months we were open, and that is the Bay, Simpsons and Zellers, we did over \$100 million in business on Sundays. That is a significant amount of business. It tended to escalate, but that was to a certain degree part of the calendar, as it went through. We started in the second week of July 1990 and went through the fall season. As we got closer to Christmas, obviously sales became larger and larger.

It pretty well paralleled our experience in Alberta and British Columbia, where we have been open for at least 10 years now on Sundays, that the consumer likes it. It is the second-largest day of the week for us in absolute sales volume and the highest dollars per hour we have of any day during the week. I bring this up only from the point of view that we are in the consumer satisfaction business. They either like what we do or we have a major problem, and the consumer likes Sunday shopping. That is the business we are in.

I suppose the big issue that faces this committee, as opposed to other committees I have talked to, is that I think we are past the point of really looking at whether in fact this is a big social issue, or an issue at all. I think one of the things that maybe is not quite understood is that the retail business—and I am not just talking about the department store industry—in Canada, and specifically this province, has got some significant problems facing it that are multifaceted, but one of the key issues is that it is probably the largest single employer in the province. We alone, as one company with about 3% market share of total department store type of merchandise business, employ 23,000 people in this province.

I suggest to you that the problem we are facing is that we are a major employer. We have to find ways of employing more people. We are also a significant barometer, I think, because we serve all socioeconomic backgrounds and we know what our customers want and what they do not. It certainly varies by municipality and by region. That is one reason we advocated that decisions of this nature should be decentralized unless you were going to have a common pause day, which is fundamentally the purpose of this legislation.

We have a problem with a common pause day inasmuch as the legislation does not address a common pause day. It is allowing thousands of stores to open or potentially open. I will give you one example: If the municipality deemed that the Eaton Centre was in a tourist area, about 350 stores could open and 15 could not, and the 15 could not because of their size or numbers of employees. That happens to be Eaton's at one end and Simpsons at the other and a few larger stores.

It seems very difficult for us to get our head around a common pause day when in fact thousands of stores will be allowed to open because they are deemed a tourist attraction or something. To me that tends to be a bit of an oxymoron. We are allowing stores to open, but you want a common

pause day, and you do not want a common pause day in other fields of endeavour or other businesses, if you will.

Our feeling is that if you want a common pause day, close everybody down. Successive governments have not taken that as being a great idea, so we end up with more and more stores being open. I guess that is where our problem on a common pause day comes in. We can live with that very nicely. Just shut the retail down.

The other thing is, what is 7,500 square feet? I do not know where a number like that comes from. The only thing we can point a finger at is that since there are only two stores in the entire Eaton Centre that are that size, other than department stores, where would 7,500 square feet come from? It happens to parallel the size of a Shoppers Drug Mart. Good for them, great lobbying, but again, the Shoppers Drug Mart is not a drugstore. A small Zellers is what in fact it really is.

This is where we have a discrimination problem. We really have a problem dealing with these inequities. If you have to have a drugstore open, great. That is no problem—have a drugstore open. But 60% of Shoppers Drug Mart business has nothing to do with drugs. In fact, 20% of it has to do with selling cigarettes. I will give them full marks. They have done a good job in terms of lobbying their position as being a drugstore, but again, I do not think it serves a common pause day situation. I do not think Shoppers Drug Mart or any major chain of that nature is an essential service.

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I mentioned that jobs were an issue and they certainly are an issue in our company. Because the legislation was very clear and it was voluntary labour, we asked our staff who wanted to work. Roughly 30% said they did not want to work on Sundays; 30% indicated, "Yes, sometimes it would be a good idea," and 30% said, "We'll take all the hours we can get." Therefore, we had to hire about 75% of our contingent to work on Sundays, as a general rule of thumb, in most of our plants. It varied by store a little bit, but that amounted to 2,700 people who were working on a Sunday who were not going to work at any other time because we had the staff to fulfil those hours of opening. I would suspect that was pretty well true for every retailer that did in fact open, because it was voluntary, and if my numbers are correct, I think there were 15 complaints about having to work on Sunday that were lodged over that nine-month period.

We believe that is true. We started off, as I said, 10 years ago in two provinces on the basis of voluntary labour, and it certainly was not a problem operating our stores on that basis. If in fact it has to be entrenched in law that nobody can be made to work on Sunday, that is great. We have no problem with that. There certainly are a lot of people who want to work in this province and in other jurisdictions. There is no problem there.

I think in overall terms the issue we are faced with is really and truly an economic issue. It is about jobs, it is about successful companies, it is about cross-border shopping, it is about a lot of these things and, frankly, it has nothing to do with the Lord's Day Act. It has nothing to do with what you might or might not want to do as an individual on Sunday.

If you want to go to church, go to church. Nobody is making anybody shop. We are saying if you are in the retail business, open or do not open. It is your decision to make as a storekeeper or a consumer. Consumers, obviously, have indicated that is what they want to do.

If the agenda of the government is to have a common pause day, then have a common pause day, but do not have legislation that essentially is enabling legislation for anybody to say, "Okay, here's our idea, and every merchant in Lake Scugog is going to open for three months during the summer on Sunday." I certainly hope the merchants are open on Sunday. It is a little boring up there in November.

I think this is one of the problems you face. It is just that there are smart economic decisions to make, and I do not think that has anything to do with anybody's moral character. People are coming through the locks; I think you want to have your ice cream store open; end of story.

I do not think tourism is the issue here. You know, the Beaches have been open illegally for—I do not know—how long? As long as there have been stores there, I guess. They are open every Sunday in the summertime and they are not mom-and-pop operators. Big chains, the same ones that are in the Eaton Centre, are open there every Sunday and never prosecuted.

That was always our other problem, that the legislation was so complicated that the police frankly were not too sure who could be open and who could not be open. Currently, right now, you have Price Club open across this city and I ask you, who has done anything to shut them down? These guys do \$1-billion worth of business, Price Club. You probably have never been in one, but I am just saying, go there. They are wide open on Sunday and they are busy. About 65% of the business is food and the rest of it is general merchandise, and they are building more stores. They have not been charged once and they are wide open.

So we are asking at the same time, what sort of position do we have in terms of enforcement of some of these situations? The logical argument would be, "Hey, if Price Club can open, then obviously Zellers can open because it has Club Z." A bit of a dumb argument, but certainly one we would be prepared to run out in court.

I think that is the other issue here too, that we are not the only retailer that feels this way. I mean, we are out there trying to keep, in total terms, 65,000 people employed, trying to keep some shareholders happy and trying to satisfy the customers, so we have to do what we have to do to run our business effectively and stay in business. Otherwise you end up being like Massey-Ferguson and going bye-bye, poof, over the border.

I think it is a very serious issue. Although it is called "Sunday shopping," there is more to this than just whether Sunday shopping for five hours is a big deal or is not a big deal. It is a major economic issue these days. I think the cross-border shopping thing is partially due to Sunday shopping, not totally.

We have a long way to go as retailers to stay competitive. Wal-Mart, the biggest retailer in the world, is opening in Buffalo. They will do \$45 billion this year in revenue. They are going to do \$100 billion by 1995, and if they jump the border, they are going to be an awesome size of

operation, run totally out of Arkansas. They do not employ a lot of people. They do everything right and they could be an awesome piece of competition coming into the border.

We have to be competitive, but the interesting part is that when people are going over the border, they might be buying the odd T-shirt at the outlet mall, but what they are really buying at the outlet mall is booze, gas, cigarettes and food, all of which are taxed like crazy. The reason liquor and cigarettes are such a great deal down there is the taxation issue. It costs Rothmans and Philip Morris the same to make a cigarette; the rest of it is just tax issue, and this is where we have to become competitive. We really have to become competitive, but your research is as good as mine, and right now the bulk of the people are going over the border on Saturday night and Sundays. That is when they are travelling; they are not going over on Tuesdays.

I suspect that if I were a retailer in Niagara Falls I would be very concerned that I could not compete. Windsor at least had Sunday shopping. Kingston, maybe, will go. The city has indicated it will go, but I think these are major issues that these border communities have really got to be concerned about. It is not like sitting in Toronto and saying, "Boy, wouldn't it be nice if we could all lie around in our backyards all day." This is somebody's livelihood we are talking about and I think it is a major issue. If we are going to centralize the decision-making, then I think it has to be looked at very carefully. This is not a small issue any more; this is a major, major issue. I leave you with that.

There is certainly all kinds of information in the brief that you can go to. Our position is well documented, but I think times have changed since the last committee met and I was in this room a couple of years ago; a major change in government too, and obviously minister.

Mr Daigeler: I have two questions, the first one being, how does a corporation such as yours formulate a position such as the one you are putting forward and how does it arrive at the brief that you are putting forward?

Mr Agnew: How does it arrive? Well, I can give you the genesis of it. The original brief we submitted to a government committee in Ontario was in 1987.

Mr Daigeler: Perhaps I should clarify a little bit. What we were trying to find out is, who determines the policies?

Mr Agnew: The management committee of our company.

Mr Daigeler: And that would be how many people?

Mr Agnew: Oh, about 10, 12, and it is consultation, certainly, with a lot of store managers and various people along the way. In the case of the Ontario situation, we had—

Mr Daigeler: If I may interrupt there, in the formulation of this position or perhaps even of your other positions as well, is there any involvement of the workers that you have?

Mr Agnew: Yes.

Mr Daigeler: Or of the local store managers? Is it only the 10 people you were just referring to?

Mr Agnew: No. We decide on a position and it is basically taken out to the field for input to see who likes it or does not like it, and I would suspect that every decision

is the same way. Everybody does not like every decision that gets made, rightly or wrongly, but at that point, it still goes out, and we decide that we think this is in the best interests of the company.

In the case of this specific issue, we had at that point about five years of experience in British Columbia and Alberta where we had in fact been open on Sunday. This was not something that we dreamt up and thought would be nice.

Mr Daigeler: I am a bit biased on this whole thing, and I will put it bluntly to you and see how you react to this.

Mr Agnew: Go ahead.

Mr Daigeler: I think you are quite right. There has been a shift in the view of the public on this matter, and I think you in particular, because I think you have been active in this for a long time, have been successful. But I am wondering whether we are not looking here at a social movement that is driven by a relatively few North American—and I stress the words “North American,” probably “American”—business interests that are corporate.

Mr Agnew: That is an interesting question. It certainly is a North American phenomenon vis-à-vis a European phenomenon, ie, Sunday shopping, no question about that, although it is kind of interesting that the same situation is happening over there in France and in Germany and in Britain to a certain degree. The same sort of bubbling up is starting to happen, although I give Europe full marks. They have a common pause day in Germany or in Vienna or wherever the case may be and the place is shut down like a drum.

1030

Mr Daigeler: And it starts on Friday afternoon.

Mr Agnew: I am aware of it, but at least it is a true common pause day. We do not have a problem with that. What we have a real problem with is saying it is a common pause day and everywhere I go stores are open, legally or illegally. If I was in the grocery business, if I was a grocery chain, I think I would commit suicide. What can I not buy on a Sunday? Every corner is selling everything from soup to nuts, little stores to pretty big-sized stores. That is where our wheels fall off. We are saying, have a rule. We do not care what it is, but have a rule and everybody will stick to it.

We have no problem in Manitoba; the place is shut down like a drum. We have no problem in Quebec; the place is shut down like a drum. But there was enough movement there that at least Quebec said: “Listen, we understand you retailers. Tell you what we’ll do. We’ll give you night shopping and we’ll give you four Sundays in December, when it is the critical time for your livelihood.” At least we got four Sundays when we really wanted them and basically everybody in Quebec went, “Hey, that’s great.” We went, “That’s great,” too. We would like more, but that is fine. We will accept that.

I am saying, if you have to have a compromise on the thing, you say, when do retailers make all their money? Leaving food out of it, most retailers are breaking even or losing money for nine to ten months and in two months of the year they make it or break it. If they do not have a

good November and December, they have major problems. I suggest that if we are looking for a compromise, then you say, “Fine, let’s let the guys do it at Christmas.” Certainly there is precedent on it in terms of night shopping. When we did not have nights to open, that was the first thing we could open in the month of December, whatever the rules were. It varied by province. But we are saying, have a common pause day, great; then shut them down—Price Club, Shoppers Drug Mart—unless there is a need to be used.

That is our opinion. Yes, we are advocating Sunday shopping, but we will accept the hard rule. But we have a lot of trouble saying, “You guys close, but we’re going to let a couple of thousand other stores open because they happen to be at Queen’s Quay.” Give me a break. When Sunday shopping came into effect Queen’s Quay stores almost went broke, because if I have a monopoly, I am going to have a field day. Let me be the only department store to open on Bloor Street or Queen Street or in Mississauga or something.

Mr Carr: I know what you mean by that. My wife went out to get some salad one Sunday, and she could go out and buy it, the market was open, but she could not buy the dressing for it. But she could if she went to the convenience store and bought it, so I know what you mean by its being confusing.

I was interested in some of your figures on the people working; I think you said 30%, 30%, 30%. The impression has been given by some of the government members, and in fact even the Solicitor General, that one of the problems we have is that business, and in particular the big, bad, large businesses like yourself, have been forcing people to work on Sundays, and I just want to clarify. I think you said that 30% want to work, 30% said, “We’ll do it sometimes” and 30% did not, and that as a result the 2,700 workers who would not be employed otherwise were all volunteers. So these were people who were not coerced into working. These are people you hired who would have no job as a result. Is that correct?

Mr Agnew: That is totally correct.

Mr Carr: Also, one of the big concerns I have is the 7,500-square-foot rule. Not being a lawyer, I would not want to guess whether that would seem to be fair, but I suspect that will be challenged. If in fact a municipality like Halton—let’s take my area—passes a bylaw very simply and makes Halton open because it is a great tourist attraction, and then as a result of each of the individual stores having to apply individually, the council says, “No, we don’t want to fill up our agenda with the Bay coming, the large stores that are going to come through; we’re not going to go ahead taking a look at these because it would literally fill up some of the agendas,” would your company at that point most likely be taking the law to the courts to decide about that 7,500?

Mr Agnew: I think if that scenario transpired the way you wrote it, we would certainly have to actively look at it. Again, one of the other problems we have with the act itself is that some of the requirements, in terms of applications—no appeal, da dum, da dum, da dum—are really

sort of scary in terms of what you can or cannot do or might or might not happen in this type of situation at the municipal level.

Mr Carr: It is my feeling that if a region is going to say it is going to open because it is a tourist area, it is going to be a lot of time and money, from both the company's standpoint and the municipality's standpoint, to then sit and listen to it. If they want to open, for whatever reason, that is fine, but what do you anticipate happening with a number of municipalities that you will be dealing with having to go back? How much time—

Mr Agnew: I think it will vary. We did a lot of cruising around when we had the other legislation, long before it was in court, talking to the municipalities and the regions about this issue, and we talked one on one with the chairman and stuff about what we could or could not do. I think if you are going to declare a region a tourist area, subdividing it from that point onward does not really make a lot of sense. I mean, either you are open for business or you are not, and all of a sudden saying, "Wait a minute. Your store is too big. You can't really get the tourist dollar. That is for Harry down the block," really does make any sense, and frankly, it is not fair.

Mr Carr: What is your particular company's situation, if it is public knowledge? Are you in a loss situation right now?

Mr Agnew: Oh, no.

Mr Carr: So you are profitable now.

One of the things that has come up, even when we debated where we were going to go, is that the government side said it is not a cross-border issue. I think you are right. The big issues are the gas taxes, the booze tax. They are the biggest things, and in fact in this last budget they were all increased by this present government. So I think there is a lack of understanding of what is creating it. What would you say to the members who have said that this is not a cross-border issue, that staying open on Sunday has nothing to do with Sunday shopping? In fact, the former Solicitor General said that as well. What do you say?

Mr Agnew: I guess everybody has an opinion, but if you look at the statistics of when people are going over the border, as I said, I think it is 16% and change who are going over on Sundays. I do not think that is accidental. Obviously people have maybe got Saturday and Sunday off, but it is interesting; it is far higher as a percentage on Sundays than it is on Saturdays or Friday nights. I think that is partially the fact that they cannot shop right now. They are not just going over, living in Niagara Falls. They are going over from Toronto, Scarborough, all over the place.

Mr Carr: Do I have more time?

The Chair: No.

Mr Carr: I should not have said anything. You probably would not have caught me. Thanks very much, and good luck.

Mr Fletcher: I just have a few things. I agree with what Gary was saying about cross-border shopping and Sunday shopping not really being tied into it. But as you were saying, there are so many people going across the

border, this problem with cross-border shopping—when there was wide-open Sunday shopping for nine months, people were still going across the border. It did not seem to turn them around.

Mr Agnew: I agree, but I think you would agree with me that the issue of cross-border shopping is a phenomenon of 1991. This was not a big issue in 1990. This is a fairly recent phenomenon. It has taken off like a rocket, essentially at the start of this year. Again, I am not advocating that Sunday shopping is the total issue here.

Mr Fletcher: I know you are not.

Mr Agnew: Saving money is the issue here, but I think at the same time that Sunday shopping, or competitive shopping on any day of the week, is critical to keeping prices down. The minute you have legislation to allow somebody to open and somebody not to, the guy who is open is going to get more money for his product; end of story. If you are running a corner store, you are making more money without any competition than if every grocery store in the city is open; end of story. It is just a matter of logic. I think that is really the issue, being competitive. We have to figure out a way of getting good value to the consumer that is equal to that of the United States.

Mr Fletcher: Sunday shopping alone is not going to do this.

Mr Agnew: No, but certainly I would say it is part of it. It is a significant part of it. It allows you to compete. Now you are giving the consumer no alternative, "I can't shop at all," never mind being competitive.

1040

Mr Fletcher: As I was going through your brief, you also mentioned—I understand your concern; I am just trying to get some facts cleared up—thousands of retail workers will not have jobs if you do not open up on Sundays—just during the time, if I remember correctly, the Bay did cut some staff not long ago.

Mr Agnew: It was in the spring of this year.

Mr Fletcher: Maybe it was reorganization or something.

Mr Agnew: Call it what you want. We reorganized and we eliminated 250 people.

Mr Fletcher: And that was during the time when there was wide-open shopping.

Mr Agnew: No, that was this spring.

Mr Fletcher: Okay, let me just give you a stat. This is not your store, but this is part of the retailers. Just after June 1990, when there was opening, there were 200 jobs lost at A & P, and that was with wide-open Sunday shopping. I have a problem when people come here and tell me, "If we open up Sundays, we are going to create jobs," because it has not been proven that happens and there are not really any data to go either way. I just know that people have lost jobs.

Mr Agnew: I will give it to you, whether you want it in writing or however you want it, but what in fact we actually did: how many people we did employ, who worked, how much money they made. Whatever kind of

information you specifically want, I will get that for you, to indicate we had to hire, because our policy is simply that you cannot work more than five days a week. We do not allow overtime. That is rule 1. You can only work five days a week and you can only work 37 hours a week. If you are open seven days, you have got to hire people to work the days. It is that simple. We hired 2,700 people, period, to work the five hours, and we paid them a full day's work to do it.

I do not know what the other companies did. I do not want to talk about them. I can just tell you what our three companies did.

Mr Fletcher: Okay, that is fine. Where are the 2,700 now? Are they still working?

Mr Agnew: Some who are part-time employees would be still working, yes, with fewer hours, but the bulk of them are not working. Unfortunately, they happen to be the students, women, etc.

Mr Fletcher: Just one other thing, going back to cross-border shopping again. You have stores in the western provinces. In British Columbia, with wide-open shopping, the highest percentage of people cross the border to do their shopping. Again, I know it is not just the cross-border shopping issue, but it does not seem to turn it around when people are open on Sundays.

Mr Agnew: I do not think it will turn it around. It is part of our problem. But at the same time, if you look at the BC experience—I lived there for three years in the late 1970s—what is very interesting is that people were still buying their groceries in Bellingham. That was a long time ago.

Mr Fletcher: I remember when I was younger we used to go across the border also.

Mr Agnew: You bet. It was not a booze and cigarette issue.

The Chair: Could Mr Lessard have an opportunity to ask a question as well, Mr Fletcher?

Mr Fletcher: That is fine.

Mr Lessard: You talked about the percentage of people who decided they were going to work on Sunday and the percentage of people who did not want to work on Sunday. I was wondering if you had any sense of the percentage of people who may have felt they were working on Sunday because there was some pressure that they felt. Maybe they were not forced to work, but in their own minds they perceived that if they did not work on Sundays, maybe their employment would be jeopardized. I wondered if you had any sense of anything like that.

Mr Agnew: I personally do not have any sense of it, I think because of part of the situation, as you recall, when the court struck the act. It was certainly very widely publicized about (a) Sunday shopping and (b) the fundamental laws that were in place to forbid forcing anybody to work, plus the fact that the press was a very major player in this equation in terms of roaring around and talking to staff and all this kind of stuff. It was big news back then.

From my perspective, it was not an issue, because we had a corporate policy that was very specific. It had been on the books for years in terms of not forcing people to do

things they do not want to do on Sunday, period. It had started out west, because the same issues had come up out in British Columbia in 1980.

Mr Lessard: So you support that provision of the legislation to protect the worker's right to refuse to work on Sunday.

Mr Agnew: Totally. I agree. If that is a concern, then I think you write it into labour legislation. I would also ask you write it into other fields of endeavour, as opposed to just retail. That is another thing we cannot quite figure out, why the great concern about the retail worker, yet there are no provisions for any other type of worker for not having to work on Sunday.

Mr Lessard: What about a provision to pay a bonus for people who work on Sundays?

Mr Agnew: That is fine. I guess that is your prerogative. I think that most companies probably do anyway.

Mr Lessard: Did your company pay a bonus on Sundays?

Mr Agnew: Yes.

Mr Lessard: What was that?

Mr Agnew: We paid them 7 1/2 and they worked five. It worked out to roughly time and a half. We paid them for a full day.

The Chair: Thank you very much, Mr Agnew.

TIP TOP TAILORS

The Chair: Our next presenter is Gordon Edelstone, chairman of Tip Top Tailors. As you have probably observed, we will have a lot of interest in asking you questions, so of your half-hour you could leave some time for committee members. Proceed when you are ready.

Mr Edelstone: Ladies and gentlemen of the committee, as has been said, my name is Gordon Edelstone and I am the chief executive officer of Tip Top Tailors. I have worked for Dylex Ltd, our parent company, for 22 years. I am an executive vice-president of Dylex and serve on the executive committee of the entire corporation.

I am very pleased to have been asked to be present today, because I believe that the consultation process is vital for the health of industry in general and to enable an atmosphere of understanding to develop between government and industry.

If I may take a moment to explain the history of Tip Top Tailors, we are truly part of the fabric of Canadian culture. There is probably hardly a Canadian who has not heard of us. We have been established since 1909, when David Dunkelman, who was a buttonhole maker—it used to be an honourable profession at that time—decided to make clothing for a living. He was probably the first in the country to be a vertically integrated unit, having both retail stores and his own factory. The company prospered throughout the years, but eventually foundered when the next generation of Dunkelmans took over around the end of the Second World War and the company was very slow to adapt to the new retailing. Tip Top was bought by Dylex in 1967 and after that has been consistently profitable over

the years. The first loss appeared in 1990, and 1991 is also going to be a year of major financial losses.

Tip Top Tailors operates 187 stores in Canada, of which 76 are located in Ontario. We do about \$200 million in sales in the whole of Canada and about \$65 million of this is in Ontario. In this province we employ 1,112 people, of whom 665 are male and 447 are female. The bulk of our employees are between the ages of 20 and 50, but we do have 10 employees in the province who are between the ages of 70 and 79. Any visit to our stores will clearly show that we are an equal opportunity employer, because we have consistently hired people of every colour and every ethnic background.

Problems began to surface in 1990, when business began to drop consistently with the onset of the recession. As bad as 1990 was, however, things really took a dramatic change for the worse when the GST was introduced on January 1 of this year. In fact, we have some research—I just received this recently—that shows that in the first quarter of the year, men between the ages of 35 and 44, which represents the very core of our business, purchased 38% less than they did in the first quarter of the prior year. This is the climate within which we can now discuss Sunday shopping.

It has now become a truism that customers are furious at the federal government for the introduction of the GST and that this has now extended to an anger at all governments. People are only too anxious to revolt in any way they can. When Sunday shopping was stopped in Ontario, we handed these disgruntled customers a perfect vehicle to vent their anger. What started as a trickle of Canadian customers going to the US has now become a torrent. I believe the figure is \$2.2 billion being spent across the border, which, by the way, would represent \$175 million worth of revenue to the province if it were kept on this side of the border.

Whole families make a practice of going to places like Buffalo every week. I do not believe that many of them go specifically for men's clothing, but when they go to the various outlet malls, like the one in Niagara Falls on Military Trail—that is on the American side, of course—there is plenty of clothing there, and once they are in a shopping mode, they can easily pick up a few bargains in shirts, trousers or sweaters.

A law banning Sunday shopping might be a noble attempt at something, but I hope that this committee will recognize that such laws cannot be passed in a vacuum. We are not Albania, capable of putting up a solid wall around the province. As long as people have the right to cross the border and also have the right to take their money across the border, they will do just that if there is a good reason for them to do it.

1050

It has been reported by the media on numerous occasions that some products in the US are absolutely available at 30% to 50% less than they would cost in Canada even after considering paying various duties, which many people do not pay anyway.

We in the clothing industry therefore find ourselves losing all the auxiliary purchases just at a time when we need every penny we can get just to survive.

I hardly need remind the committee that the more we encourage people to shop in the US, the more the public's confidence is undermined in all Canadian retailing, even in those of us who are in an industry that stacks up very well against the Americans.

The government of Ontario has proposed several amendments to the Employment Standards Act, and we support these amendments. We at Tip Top have never forced any employee to work on Sunday and never will. Our employees usually work a maximum of 40 hours a week anyway, so the problem of time off is not one that we are particularly concerned with.

We certainly do have a problem with the whole issue of tourist exemptions, which I heard Mr Agnew talking about. It is inconceivable to me that Toronto's Eaton Centre is magically transformed into a non-tourist attraction, despite the fact that it attracts more tourists than any other single facility in Toronto. Here we have the double whammy of Canadians being induced and given the opportunity to shop on Sunday in the US, while those Americans who come to visit Toronto and visit the Eaton Centre do not have the opportunity to do any shopping here.

I would like to spend a moment talking about the whole idea of Sunday shopping. I have watched people shopping in both Canada and the US on Sunday. Approximately 10 years ago, we had an outlet store on Dufferin Street. The law was not particularly enforced at that time. We used to open on Sunday and we did an extremely successful business. I went there just to see what was happening. I used to marvel at the number of people who came to shop in that store, and believe me they did not look downtrodden. They did not look like they were forced to come. Whole families used to come out together and they would laugh and joke while the suits were being tried on, and we smiled while they were spending the money. These were people who genuinely found it a great convenience to shop on Sunday. These are the very people we are driving away today.

On a personal note, I can tell you that I have three daughters, two of whom are married. The two married ones have full-time, difficult jobs. They truly resent not being able to do their shopping on Sunday, and anyone who tries to tell them they are better off now simply does not understand the reality of modern-day middle and working class life.

Another fact is that shopping today is entertainment for the masses. The malls are safe and they are comfortable. They can also be as cheap as you want them to be. Throngs of people go into malls to buy things they need anyway, and nobody forces them to buy anything else. They love to do it because it is cheaper than taking a whole family to the ball game. Going to a mall you can just buy an ice cream cone for the kids, and in some malls there is even entertainment in the form of rides. Those people who would have you believe that shopping on Sunday is a terrible thing have probably never gone to see the faces of the people who are actually in the malls. They are not suffering.

Now I would like to take a moment to discuss the impact of a company like Tip Top losing money. The first thing that happens is that we stop all capital expenditures

because the preservation of cash is paramount at a time like this. We must keep our money in order to survive, because if we spend it and we cannot pay our bills, we will be out of business and then there will be no jobs for anybody.

The first thing that goes by the boards at a time like this is that we stop all renovations on our stores. Obviously we cannot do it for ever, but we can certainly do it for two or three years. Technically, since we say that a store's life is about 10 years, or the fixturing is 10 years, we should be renovating 10% a year in order to maintain the health of our stores. That would be between six and eight stores every year should be renovated in Ontario at a cost of roughly \$100 a foot or \$350,000 per store. That would be something between \$2 million and \$2.5 million that we should be spending on renovations that we are not spending now.

I am not sure exactly what proportion of these renovations stay in Ontario, but I think it is safe to say that the bulk of it, almost certainly over 90%, does come from Ontario since the labour is definitely Ontario labour and most of the materials are also local.

We are also not opening any new stores, which would cost the same as renovating an old store except that when we do not open a new store, we do not buy the extra merchandise that would be required for a new store, and obviously we create less employment because we do not need it.

It has been said that some members of the current Ontario government view businessmen as the enemy and do not care whether we lose money or not, that maybe it is a punishment to be down 10%. Let me point out the real danger that I see coming in this province if Canadian retailers become weak. It is clearly an open invitation for an invasion by US retailers. It is no secret that a US retailer trying to enter Canada today will be able to get lower rents from the mall owners than those paid by current tenants. We signed our leases three, four, five and six years ago when business was booming and the malls were completely filled. They had a very strong hand that they were dealing with.

Malls today either have vacancies, and many have 20% vacancies, or they have stores that are occupied but are not paying rent. They are simply allowing them to get away with it because they do not want to have those empty stores facing the public. These mall owners will give drastically lower rents. In fact it is very easy for a US retailer today, or even a Canadian retailer if he were so inclined, to get mall owners to pay all or a major portion of the renovation of the stores. They will not only give drastically lower rents, but they will give other inducements as well to a well-financed retailer.

Something else is not particularly well understood, that most American retailers have already covered the cost of distribution from the two coasts to the points along our border. The incremental cost of distributing to Canada is certainly far less than it costs us to distribute over a 4,500-mile string of land. An American only has to get the merchandise 100 miles farther north from his American warehouse, and he can easily be highly efficient in this distribution.

The same principle applies to the supervision of their stores. They have supervisors in the northern part of the

US who can easily cross the border and come and supervise the stores here and return back to the United States in a short period of time, frequently or easily in the same day.

It should also be recognized that it would be very easy for Americans to severely reduce their income tax liability in Canada by charging their Canadian divisions for these various services at higher rates than they actually cost, thereby transferring the profits to the US where they are taxed at a lower rate than in Canada. It is my understanding that the federal government is aware of this threat and that it is expecting a major shake-out of Canadian retailers over the next five years.

At Tip Top Tailors we have a factory that produces virtually all of our suits and sport coats. The factory is located in Ontario on Weston Road right here in Toronto. We had attempted during a previous number of years to manufacture some merchandise in the Dominican Republic under a partnership arrangement, but we concluded that the quality was not to our liking and we are now attempting to manufacture everything ourselves. We are highly efficient and we have approximately 800 employees, all of whom are members of the Amalgamated Clothing and Textile Workers Union.

If business should slide and we have to cut production by a mere 100 suits a day, which is 16% of the production, our fixed costs due to overhead will go up by between \$1 and \$2 a unit. As costs go up, Montreal manufacturing and overseas products become more attractive. As more merchandise goes to Montreal, our costs go up again, and I believe that if our production drops by 30% from current levels, our factories' continuance is in jeopardy.

What I have been talking about today is not a nice, friendly, philosophical debate. The livelihoods of hundreds of people are at stake in our company alone, and we are the pre-eminent company in our field. If we are concerned, you can bet your bottom dollar everyone else is even more concerned. I submit that Sunday shopping, while not being the total answer—I make no claim that everything is going to be solved by having Sunday shopping—is certainly part of the picture in helping us maintain our profitability. I must emphasize again that our profitability is the only way to guarantee the livelihoods of the people who work for us.

If there are any questions, I will be happy to address them to the best of my ability.

1100

Mr Daigeler: In the handout we received you refer to the fact that, on average, 13% of sales in Tip Top stores that were open on Sundays occurred on Sundays, and then you are saying that in suburban locations this figure reaches 19%.

Mr Edystone: Yes.

Mr Daigeler: Are these statistics, in your experience, across the province or is it basically the result in this area?

Mr Edystone: No, that would be across the province. I have to say that the whole issue of what closing on Sunday has meant to us is very difficult to measure because we closed at a time when the recession was bearing in on us. As to how much of the drop in business is because money is going across the border and how much of

it is because business turned rotten anyway, there are many factors to that.

Mr Daigeler: In this case I am referring to when you were open. You are saying that you did about 13% of your business of the week on Sundays when they were open.

Mr Edelstone: Yes.

Mr Daigeler: That, you say, was a uniform picture across the province, whether that was Ottawa or wherever you have your stores.

Mr Edelstone: I do not have it broken down, but the differences were really between the suburban and the urban areas, higher in the suburban areas obviously. It is very convenient for families to be able to get to the stores. But yes, these figures were developed by our statistical planning department, so they are accurate.

Mr Daigeler: I am from the Ottawa area and generally the experience there with the Sunday openings was that none of them was too happy. Nobody seemed to be making too much money. If it had lasted, probably they would have closed on their own.

Mr Edelstone: I do not know that I would agree with that. I think what happened was that we gave it a very short experiment. For the first number of months that we were open, a lot of people were not even aware we were open. We are in the business. It is the core of our existence. We understand everything we are doing. There are a lot of people out there who do not care very much about whether we are open or closed and it takes them a while until they recognize that we are open on Sunday.

Certainly, when Sunday is available to them, my belief is that if we had been open for a year or two, Sunday would have become, as it is in the United States, the most productive day of the week. It is only five hours but the most productive per hour. By the way, that is one of the reasons we have never had any difficulty getting people to work on Sunday. Those who have religious convictions were always able to opt out. We never leaned on anybody for that. But many people did like to work on Sunday because it was very productive. A certain amount of their pay comes from commissions and they made money on Sunday. They were very happy to do it.

Essentially, my position is that Sunday is a time when people want to shop. There have been plenty of surveys that show people want to shop. It is convenient for them. My personal experience indicates that Sunday shopping is a very convenient time, not so much for older people like myself, but for younger people with families. They are frantic when they cannot. Fortunately, we have a few ethnic stores in the areas where my daughters are that they are able to go and buy their food and some other products on Sundays, but otherwise they would be desperate.

They come home at 7 o'clock at night on Thursday. They are tired. Yes, the stores are open. They do not feel like going to shop on Thursday night. They are tired and sometimes they have to work until 8 o'clock because they have stressful jobs. Sunday is a perfect time for them and they never felt they were downtrodden because they were shopping on Sunday. It was a perfect time for them to take the kids and the husband. The husband maybe walked

around with the children. They went and bought some groceries and a few other things and they thought it was wonderful. That is my personal experience.

I have been involved with 10 stores in Chicago for a number of years and Sunday is exactly the same in Chicago as it is here. People are happy to shop on Sunday. It is a very convenient time for them. The only difference is that we have had more of a tradition in the United States of shopping on Sunday and people are used to it, so it becomes much more important to them.

Mr Daigeler: In the States, are those stores open during the week in the evenings?

Mr Edelstone: Yes, they are.

Mr Daigeler: Until?

Mr Edelstone: Until 9 o'clock. It depends on the mall, 9, 9:30. Usually, I would say 9:30 is the norm.

Mr Carr: Thank you for taking the time to come in and make the presentation out of your busy schedule. I was taken by three things you said. You said the livelihood of hundreds is at stake; that you have no trouble, that people like to work; and that people want to shop on Sundays. They are three statements by the chairman of one of the major retailers, yet the government members seem to be saying they know better than you and in fact, even though you have been in the business a long time, deal with it 24 hours a day, they know best, they know what the people want. What would you say to a government that says in spite of your statements—because it obviously does not believe them if it proceeds with this legislation—says it knows more about the industry than you do?

Mr Edelstone: We have a saying in our business that there are good questions and there are excellent questions. An excellent question is one for which you have the answer on the tip of your tongue. I think the public has clearly spoken, that they like Sunday shopping. I would be very happy as a retailer, believe me, if we could go back to shopping from 9 o'clock in the morning on Monday until 6 o'clock at night and be closed on Wednesday afternoon the way they were when I first started in the industry. When I first got out of university I used to travel out here and the stores were always closed on Wednesday afternoon. Some stores did not even open on Saturday. That would be okay with me.

The fact is that the type of life people are leading today—they need more hours to shop, absolutely. To try to legislate them back to the old ways, even in a partial way, I think is hurting us. As I said before, you might be able to get away with it if you could put a wall around the province, but you cannot, so people are simply saying: "I'm mad at all governments anyway. I need the products. I have the time today. It's convenient for me to shop, therefore I am going to."

It is not particularly pleasant to drive down to Buffalo. I do not know if you have done it, but I used to go once a month when I had some business dealings down there and it is a pain in the neck. But they do it every week.

Mr Carr: Yes, the only good part is that most people from Toronto drive by Oakville so they get to see Oakville on the way through.

Mr Edelstone: Yes, that is a very pretty part.

Mr Poirier: And where are you from, Gary?

Mr Carr: That is one good thing. One of the big concerns the government has, and I think it is a legitimate and a fair one, is about the workers who have to work on Sunday. We have heard from numerous employers who have come through here and said, "It is not in our interest to have employees out on the floor if they are not happy." The government wants to protect them. We have heard most businesses say, "That's fine, let's even work to protect them." In fact, one of the previous speakers said we should do it for other industries as well if we are going to do it for retail workers. What would you say to a government that says, "We have to close because we have to protect the workers?" How are you protecting your workers if you are going to remain open on Sunday? Can it be done and how would you do it?

Mr Edelstone: If we were going to open on Sunday and 80% of the people refused to work, we would have a big problem. It simply does not stack up with the facts. The facts are that there are loads of people out there who are ready to work on Sunday. If they are skiers or golfers, they take a Wednesday off. They can do a lot better with their personal time then. It just is not a problem. For those who are religious it is no problem, they can go to church on Sunday morning. The stores do not open until noon anyway, so I do not see the problem. I hear everything the government has said and I just have to say I do not agree with it.

1110

Mr Mills: Thank you, sir, for being here today and talking to us. I wanted to just let you know that I would do my share to keep you in business. You know what that card is.

Mr Edelstone: Mr Mills, I thank you, my wife thanks you, my children thank you and my grandchildren thank you. Thank you very much. Did you shop recently?

Mr Mills: No, but having said that, I have a peculiar interest in the store in my riding. I go in there and I get to chat with the people. "How are things doing?" and they say, "It's terrible." I say, "Well, what's the problem?" They say, "People haven't got any money." I find it difficult to equate with you that Sunday shopping is going to resolve the problems of the industry when I think that the problems of the industry are the recession and the effects of the GST, because your own people tell me when I go in there to keep them going that no one has any money. Personally I do not quite see the equation between Sunday shopping if people have not got it on Friday.

Having said that, I suppose what worries me, and I applaud you and your company, is that you say you support the amendments to the Employment Standards Act; that you will not force anybody to work who does not want to; that you have a whole group of people who would willingly work on Sunday. My problem, and I would just like to get your comments on that, is that if we have universal open shopping on Sundays, will it not be expected of employers to demand that people work on Sunday? In other words, right now we have so many people who want to work on Sunday, but if it was the norm in all retail, food

stores and everything, it would be expected of people to work on Sunday. It is then their right to say, "Well, I don't want to work on Sunday." Would they be able to carry on their life or do you not think that some coercion—cohesion—would be put on people that if this—

Mr Sorbara: It is coercion.

Mr Mills: Coercion. I am very sorry, I am not too up on different things.

Mr Poirier: Is English your second language?

Mr Mills: I have a funny accent but you know where I am coming from, that I am frightened that if we did not have this legislation the niceness you have dealing with employees would be really gone and it would be a case of either work or else you are down the road. How do you feel about that?

Mr Edelstone: It is an interesting question, but the fact is that in the west, in Alberta and British Columbia where it has been at least three or four years, it has not been a problem and our experience in the United States is that it is not a problem. There are always enough people floating around ready to work. I have never had anybody come up to me—and I understand this principle that maybe there is some gentle suasion that they will not be well thought of, that they will not be able to make any progress if they do not co-operate with us. But I think I have a way with our people. Maybe some of them will be cautious, but many of them certainly open up to me and I have never had people come and say, "This is a rotten deal and I don't like it and I don't want to do it," because even those people who work on Sunday generally work every third Sunday. It is not as if they have to work every Sunday. There is enough floating population that they work one and take off two and frequently, certainly around Christmas time, they are clamouring to work every Sunday because it is a very profitable time for them.

I would like to correct an impression you apparently have. I will not state that Sunday shopping is going to be the correction for the ills. There are many things that are wrong and difficult in the industry today. There is a recession on, there is a GST and there is another thing too: my belief is that there has been a fundamental change in people's attitudes towards material things and I think the industry is in for a shake-out regardless. All I am saying is that all these things are happening. It is weakening retailers, and just at a time when we are weak and we need assistance—and I do not mean weak in that we are making less money than we would like. We are actually losing several million dollars a year and if that keeps up for too long we will not be around. We need every bit of assistance we can get, and every dollar that leaves this province and leaves our stores to be spent in the United States would help us survive and we need that money right now.

Mr Mills: I just want to reinforce that we are here to listen and I am listening and will take note of all you say. Thank you very much for your presentation here.

Mr Edelstone: Thank you very much for hearing me out, and please spend money on that card whenever you can.

Mr Carr: The suit I am wearing is from Tip Top.

Mr Edelstone: This is a winner today.

Mr Carr: I want you to know that when I asked the kids on the front steps who came to visit me for questions, I thought they would ask about health care or education. The first kid put up his hand and said "You've got a nice suit."

Mr Edelstone: That is the best news I have had all week. If I had known I had two customers here I would have brought along a couple of swatches.

ONTARIO CHAMBER OF COMMERCE

The Acting Chair (Mr Cooper): Could we have our next presenter now from the Ontario Chamber of Commerce? We will allow you half an hour. You can divide that any way you want. You can make it a half-hour presentation or a short presentation and open it up for questions and comments. If you would please identify yourself.

Mr Carnegie: My name is Jim Carnegie. I am the executive director of the Ontario Chamber of Commerce and as such am serving today as the spokesman for our 168 community organizations representing over 65,000 businesses spread throughout Ontario. It is interesting to note on that comment that over 78% of our members are what would be qualified as small businesses with a heavy emphasis particularly in the retail trade. Our membership encompasses both small entrepreneurs, multinational corporations and retailers in communities throughout Ontario.

When Bill 115 and its companion regulations were introduced on June 4th of 1991, the Ontario Chamber of Commerce and its constituent community organizations were surprised and somewhat dismayed to read that our organizations had been given responsibility of dealing with an application for exemption under subsection 4(3) of the act. Paragraph 3(1)4 of the regulations made under the Retail Business Holidays Act, tourism criteria, reads as follows:

"If there is a chamber of commerce, a convention and visitors bureau, or a similar organization serving the area being considered, a letter indicating that the organization, or if there is more than one of them, one of those organizations, supports the opening of the retail business establishments in that area on a holiday."

The first note I would add is that in many of the communities throughout Ontario the responsibility for a visitors and convention bureau, while it may be run as a separate entity, is in fact a branch of the chamber of commerce, so we get hit by both sides of that. The other question, of course, is a definition of a "similar organization," and to the best of our knowledge there is no similar organization to the chamber of commerce. We are the only association of our kind in the province which represents the spectrum of business interests rather than the vertical interest groups that are the norm. As a consequence it would appear that particular section relates almost directly and exclusively to our organizations.

I might add that to have that type of information dropped on you from the blue, without any consultation either at the community level or the provincial level, without any suggestion that a rather dramatic change in norm was going to be undertaken, was not taken with great glee.

A survey of our community chambers of commerce and boards of trade indicated there was strong opposition to this regulation from our members. Strong opposition is a very kind and polite way of phrasing it—it actually ran all the way from dismay to shock. The Ontario Chamber of Commerce and its constituent organizations are not now, nor have we any interest in becoming, a quasi-regulatory body either for the government of Ontario or for any municipality, and we certainly have no desire to be perceived as such.

As an aside, Mr Chairman, I would point out that if the government of Ontario would like us to become a regulatory body for business, we would be delighted to accept the responsibility, assuming of course you give us the power to licence businesses so I do not lose all my members in the interim. We are not prepared to accept that particular role nor are we prepared to accept the legal implications that could flow from making these kinds of decisions or, even worse, the legal implications which could flow equally as readily by not participating in the fine line of the act and saying, "No, we won't comment, because we're likely to be subject to exactly the same litigation."

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On behalf of our member chambers and boards, we strongly oppose the delegation of authority and ask that chambers of commerce be deleted from paragraph 3(1)4 of the tourism criteria regulation. In doing so, I emphasize again that a number of our visitor and convention bureaus are operated by chambers of commerce and boards of trade and suggest that in the main they probably are no more anxious than we to be subject to this particular section of the act.

In reference to holiday shopping, over a period of time our members' attitudes to the opening of retail establishments on Sundays and holidays has changed, and I think relatively dramatically. Our members adopted the following position in 1988:

1. That the Ontario government recognize the problem of individual municipalities' control over retail business holidays by maintaining uniform provincial legislation.

2. That the Ontario government reinforce Sunday as a common day of rest under the Retail Business Holidays Act and provide guidelines for municipalities for essential service exemptions, including tourism.

3. That the Ontario government be consistent in its legislation on whether or not Sunday is a holiday in both the Retail Business Holidays Act and the Employment Standards Act.

When that position was adopted in 1988, our sense of membership sentiment was that it was virtually evenly divided on the question of whether retail stores should be permitted to open on Sundays and holidays. Our members supported uniform, centralized regulations as they feared the domino effect that could occur if this matter was governed municipally. I think that was a very fair assessment at that time. In fact, many of our organizations were faced with an almost 50-50 dramatic split in their membership support between, for example, groups of downtown merchants and small merchants.

Following the province's flirtation with Sunday shopping, however, we sense a remarkable change in our members' views. While we have not conducted a recent in-depth survey, we believe that our members are still divided on whether they wish to open their businesses on Sunday. We note, however, that there is a distinct change in the attitude as to whether businesses should open on Sundays or holidays. That is to say that our members are now less concerned as to whether someone else opens on Sunday and seem to be coming to the conclusion that it should be up to the individual operator and not a matter of legislation. In support of this conclusion, we offer the following examples.

In April of this year, the Sarnia-Lambton Chamber of Commerce surveyed its members, not to determine if retailers should or should not be open on Sundays but rather to determine what the impacts might be and to see if there was a consensus that could be developed. Based on the results of their survey, the Sarnia-Lambton chamber concluded the following: (a) the loss of the Sunday option for retailers will have a significant impact on the local economy; (b) the majority of the surveyed retailers would prefer not to be open on Sundays; (c) an equal majority of retailers would insist that they should have the right to open on Sunday as opposed to having their hours legislated; and (d) the results would appear not to deviate should the decision be made to have this area come under a tourism designation.

In the next example, in May of this year the Thunder Bay Chamber of Commerce surveyed its membership on the question of Sunday shopping with the following results: 68% of its members indicated they were in favour of Sunday shopping and 65% said the marketplace should make the decision, not municipal or local governments. In a survey of 342 respondents at the Thunder Bay chamber's trade show, 70% indicated they were in favour of Sunday shopping and 85% believed the marketplace should make the decision.

The board of directors of the Kingston Chamber of Commerce adopted the following motion in June of this year, "That the Kingston Chamber of Commerce believes that retailers in greater Kingston should have the choice to open for business on Sunday." Some of the reasons cited for this motion were as follows: to service the tourist market that expects to be able to shop on Sunday; to be competitive with retail operations in the United States; to eliminate discrimination that currently exists against some categories of merchandisers, namely, fashion, jewellery, footwear and large groceries; to reduce government interference in business; to create new jobs; to provide freedom of choice—for consumers freedom to shop or not to shop, for retailers freedom to open or close, for workers freedom to work or not to work, for Christians the freedom to worship or not to worship, and for citizens the freedom to organize a family time or to spend time alone; and to allow these choices uniformly across the four municipalities that make up greater Kingston.

To us, these comments from such diverse communities across Ontario indicate a strong support for freedom of choice relative to retail business holiday openings.

Our members also believe that employees are appropriately protected in current legislation in that they are permitted to refuse Sunday work that they consider to be unreasonable and to refuse work that is in contravention of subsection 2(2) of the Retail Business Holidays Act. That is the work on holidays. We do not believe the proposed amendments are necessary or appropriate under those circumstances.

That completes my formal submission. There are a few comments I would like to add.

Again, in discussion with our members there is a growing feeling and a growing recognition of the fact that, ultimately, the marketplace is likely to be the largest determinant as to whether or not it is appropriate for a business to be open on Sunday.

I am sure you have listened, and we have certainly listened, to all kinds of business persons over the last few years. They are all concerned about the bottom line, they are all concerned about the recession, they are all concerned about their ability to survive under the economic conditions of today. The fact is that no business can operate for ever against the marketplace. If you cannot find the employees, Mr Mills, whom you are concerned about, you will not open, because you will not have them if those employees are, as we believe them to be, adequately protected by law. If the demand for your product, services or goods is insufficient, again, you will not be able to afford to be open on those days.

In fact, the growing sentiment among business at this point appears to be that this should be a matter of individual choice and it should be a matter that the marketplace determines to a very large extent.

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I thank you for the opportunity to appear before the committee. We would be delighted to try and answer any questions there may be in the time remaining.

The Chair: We have about five minutes for each caucus.

Mr Sorbara: Jim, you are suggesting that among the members and the individual surveys they have done there has been a dramatic shift in ground on this issue. Is that your own personal experience as you talk to other chambers around the province in your capacity as executive director?

Mr Carnegie: There is no question about it. As I say, the formal policy of the chamber was established in 1988. At that time, as you may recall, there was a lot of debate on this whole issue and the predecessor legislation. The general attitude at that time was that there was an almost perfect split, exacerbated particularly in those communities where you had a strong downtown business core and it was in direct competition with a newly emerging mall situation, usually in the suburbs. There was a lot of very high emotion at that time and battle lines were drawn pretty strictly.

In the interim, in most cases those malls have now gone into business and they are becoming a little more assimilated. A lot of the emotion has cooled down. Certainly, the individual reaction we are getting, both by survey and by comment—and, I might add, by phone calls and

correspondence to my office—indicates that the attitude at this point is, “I would prefer that this be an option I can take.”

Mr Sorbara: I want to ask you about paragraph 3(1)4 of the draft regulations. That is the section that puts the chamber right in the middle of the decision as to who is and who is not going to open, because as I read this section as a lawyer, an application for an exemption cannot prevail unless there is a letter from the chamber or a similar organization. When we contacted your office basically to inquire about why the chamber would want to undertake this activity, you told us—and I am telling my colleagues on the committee—that no one had ever contacted you before this was drafted and no one had ever contacted you since.

Can you tell me and the members of the committee what this sort of responsibility might do to a local chamber of commerce if somehow you were forced to play this role?

Mr Carnegie: There is absolutely no question in my mind whatever that the potential effect of that particular section could result very readily in the bankruptcy or the complete demise of any number of my community organizations.

Mr Sorbara: Why is that?

Mr Carnegie: There are a number of reasons. First and foremost, as I had mentioned to you, there is still some divided opinion. We are a voluntarily funded organization. We are funded by fee membership. One of the quickest ways to lose your member and his consequent fee is to do something he does not like. That goes to both sides, that is, either giving somebody in your competition the right to do business when you do not want him to or, conversely, refusing that right to do business when he wants to. In either case, those sides are going to immediately withdraw their support of the chamber.

The other aspect which concerns us even more is the potential liability that might be faced. If I were a representative of a major corporation and it was my wish to open on Sunday and make application under this act and the chamber did not provide the letter of approval, I am quite sure I could turn my corporate lawyers loose and we could probably come up with a dozen different charges. I may or may not have an opportunity of winning in court, but it would have to be defended and, frankly, the budgets of chambers of commerce are simply not in the position to be faced with that type of expense. I would not even want to contemplate the result should a frivolous action of that nature result in a win for the complainant. This would be just the end of chambers of commerce.

There is no earthly way that the government of Ontario or any other governmental body can abrogate the responsibility of regulation to a voluntary, fee-supported organization, not without guaranteeing that source of fees. This is an absolutely impossible situation.

I must say we were also somewhat shocked and surprised—as flattering as it is for the chambers to recognize—to find that the government has said obviously we are the grass roots of the communities in Ontario by putting us in the act, but it is absolutely impossible for any governmental organization to put a regulatory authority on a voluntary organization. It simply cannot result in anything but disaster for us.

Mr Carr: Thank you very much for taking the time to do the presentation. I say to my friend Gordon Mills, who sits there listening, you are hearing from the chambers saying they do not want to do this. If nothing else happens, hopefully that will be taken back and very strongly conveyed. They were not consulted. They do not want to do it, and quite frankly I do not think this should be so. I am keeping track, Gordon, of the number of times you said, “We’re listening,” and I am up to half a dozen now.

I underline that an organization that does not want to do it should not have to do it and, quite frankly, should have been consulted before it was put in there. I will underline that. I think we have engrained that. I suspect we will get a lot of support for any amendment that members of this committee will put in to strike that out for your chambers. One good thing is that it is certainly impressed upon me and I was very shocked at reading that on page 2.

Having said that, one of the questions I have relates to the tourism exemption. Under the guidelines as they are laid out now, do you foresee over the next little while our having complete open Sunday shopping? Do you see it being a patchwork, with some open and some closed? What is your best guess?

Mr Carnegie: My best guesstimate at the moment is that we are going to be into a patchwork situation under this legislation and under anything in the immediate future. I believe firmly, and I think the bulk of my members believe firmly, that on this specific issue ultimately there will be no option but an open option. It was not that long ago that you could not have a ball game, could not go to a movie and could not do anything else on Sunday. Those views are considered archaic today. The fact is—I know you had testimony previously—that with the lifestyle today, particularly in Ontario in the face of competition along our borders, everything you look at in that direction tends to suggest that ultimately it is really going to have to be the marketplace that decides. But that is down the pipe.

Mr Carr: You have just underlined in the testimony that this is what your members like, that they are in favour of the market. Even those who may be opposed to it are looking at the numbers. They are saying they might still stay closed.

Say the local shop owner in some town does not have a big staff—it may be a family business—and does not want to work. Would you see, if the municipality opened up, the competitive pressures being there to open up?

It seems to me that by some of them saying they do not want to work on Sunday but that they favour that option, indeed some of them might stay closed and a particular individual who is running the store himself may say, “I want Sundays off.” Do you see that happening or do you see, because of the competitive pressures which are tremendous out there right now, them saying, “I don’t want to work but because my competitor down the street is open I am going to have to open”? What is your best guess of what your members will do?

Mr Carnegie: I think there is no question that there is certainly going to be some initial competitive pressure. Ultimately, there are going to be two deciding factors. One

is whether or not it is an economically sound decision, whether they can in fact make a profit out of being open on Sunday. The other one is the particular will of that owner. In many of our communities in Ontario right now—I happen to know one where I happen to have a summer residence—it is the practice currently and has been traditionally of a number of the merchants that they still close Wednesday afternoon. That happens to be a time they want to close. That is an independent retailer's opinion and decision. He does it and he does it at his own risk of business.

Those decisions are going to be made as a combination of two things: the practicality of it and the will of the operator. There is no question whatever that in the initial stages, yes, there will be some competitive pressure or even a pressure that says: "I wonder what happens if I do. Does it work?" That is the divergence of opinion.

Mr Carr: There has been a lot of talk about protecting the workers and a lot of the groups have come through and said they can find a lot of workers. What about some of the smaller merchants? Do you think they will be able to find workers who are willing to work on Sunday?

Mr Carnegie: Absolutely. There is an infinite pool of potential workers, and I emphasize "potential." There are many cases in fact, and I can go by personal experience, where one party in a marriage has a full-time responsibility looking after the family, etc, becomes very confined, would like to get out and mix with the public and would also like to earn some pin-money, and would be absolutely delighted. This is where a lot of Thursday help and Saturday help is coming from, and certainly in those places where the stores are open, where a lot of Sunday help is coming from. That is a pool that cannot be tapped or is not tapped generally during the regular work week, so I do not believe there is likely to be a dearth of people available to work, assuming the option is there to have the job.

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Mr Fletcher: Just a couple of things: I agree with you that people are changing their attitudes towards Sunday shopping, but the one thing that is remaining constant is that if you turn that question around, "Would you like to work on Sunday?" the figures are constant also; about 70% are saying no. That is one of the reasons the employee protection part of this is in there.

I notice in your brief you were saying that you believe the employees are appropriately protected in the current legislation, which is Bill 114, if I am correct. Let me just read to you what former Liberal MPP Rick Ferraro, who was from Guelph, said in March 1988 when Bill 114 was going through: "You have to work when the business is there. Employees are jeopardizing their jobs by refusing to work. An employer will eventually find someone who is willing to work on Sundays."

That is talking about the Liberal legislation that was introduced and a Liberal person is saying that, that there was no protection.

Mr Carnegie: That would not be the first time I have disagreed with a Liberal.

Mr Fletcher: It would not be the first time I have either. What we are saying is that the protection was not there. That is one of the reasons there is protection, and also because there are about 70% of people who do not want to work on a Sunday. As far as that piece of legislation is concerned, that is why the employment stand had to be reinforced. We have heard from a lot of retailers and a lot of other people that they do not mind that part of the legislation. It seems like the retail industry is still a little split on whether it wishes to open on a Sunday, even from your brief.

Mr Carnegie: There is no question that there is still a great split on that. Again, if you are dealing with human beings, you are going to have varying degrees of moral suasion. The legislation, clearly written, provides that you cannot have job loss as a result of refusal to work on Sunday. The protections do appear to be adequate. I will never guarantee that under the law there will ever be perfection. There will not be, because human beings are involved. But for the vast bulk, as long as the legislation has been designed to do the best it can to protect those who do not wish to do so, I do believe there is a sufficient pool of those who would like to—in fact are quite anxious to—take that opportunity. It is not quite the same black-and-white, cut-and-dried situation because you do not have to apply the moral suasion if in fact there is a legal and adequate solution to it.

It is awfully easy to take it to the very letter. The facts are that it is a fairly flexible workforce that we have in this province. We have certainly proven it in the past.

Mr Mills: I have one or two things I want to touch on, time allowing, and I am going to talk fast. Your written brief, I feel, is somewhat misleading. You say you were given the responsibility, and I do not think that in fact you were given the responsibility, to deal with an application. I think it is fair to say that you are known as a potential type of organization to give some support to an application. I know you were not specifically asked to play a role in this legislation, but I do believe that through Tourism, the broad base was touched with the chamber.

Mr Carnegie: Not according to the survey of our members.

Mr Sorbara: On a point of order, Mr Chairman: To accuse another member of Parliament, in Parliament or on this committee, of being misleading is unparliamentary. I think that equally applies where a member accuses a witness before our committee of misleading the committee. I object to that. His language is unparliamentary and inappropriate in this committee.

The Chair: Mr Sorbara, your point is well taken. I am sure Mr Mills would like to rephrase his question. It is not an issue of parliamentary privilege.

Mr Sorbara: It is a point of order under the standing orders, sir.

The Chair: However, it is an issue of hospitality which, as the Chair, I would like to ensure occurs. Perhaps you would reword your question.

Mr Mills: I have no intentions at all. It is just a phrase I used, that you said, sir, you were given the responsibility, and I do not think that is really what was meant.

Mr Carnegie: If the time were different, Mr Mills, perhaps we could debate that at length. I do not think there is any question that the legislation, as it is written, puts a requirement upon us that could in fact put us in a quasi-regulatory authority.

Mr Mills: I would just like to ask the role of the chamber. I spent several years on the council of the city of Barrie and it seemed to me that every night we had a council meeting and—you probably know the gentleman—Bob Hollywood was always sitting there. It was customary for the mayor, if something came up, to say, “I wonder what the chamber thinks.” Then he would say to Bob, “Bob, would you like to come forward and give your views on this?” So he would come up.

I remember one instance where a bank wanted to put a car in front of its premises on two meters for a month to advertise that it was giving it away. When we dealt with this at council, the mayor said, “Bob, what do you think about this?” He came up and said whatever; I forget now. I think in honesty that when the government formed this legislation it really saw the role of the chamber as I am trying to explain to you, “What do you think?”

I would ask you, Mr Carnegie, what sort of role you see the chamber playing in this tourism criterion or this legislation? Do you see that you are not having anything to do with it, or do you want a say on what happens?

Mr Carnegie: The role of a chamber of commerce is to represent the viewpoint of business. We will be happy to play that role and we will be very happy to participate in any way that is appropriate. It is not our role to be part of a regulatory process. If an application is not accompanied by this letter of authorization, we can only assume the application is incomplete and will not be dealt with. We are very happy to voice our opinions, and, as you pointed out so aptly, we do so.

We are extremely flattered that the government has recognized the role the chamber plays at the grass-roots level, but there is a quantum leap between being recognized as a voice of a community or a collective voice of business and playing a role at a community level, and taking a role as an unwanted regulator.

Mr Mills: I can see that.

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CANADIAN TIRE DEALERS' ASSOCIATION

The Chair: Our next presenter is George Hayhurst, who is the president of the George Hayhurst Canadian Tire franchise. Are you speaking on behalf of Canadian Tire, the corporation?

Mr Hayhurst: The Canadian Tire Dealers' Association—the dealers, not the corporation.

The Chair: Please have a seat. Mr Hayhurst does not have a written submission, but I am sure has some points he would like to make. Then we will have the opportunity to pose questions in the remaining part of the half-hour. Please proceed when you are comfortable.

Mr Hayhurst: I look forward to voicing the opinions of the Canadian Tire Dealers' Association of Ontario. Surprisingly enough, I am here to speak against Sunday shopping as a member of one of Canada's and Ontario's largest retailers, Canadian Tire. I am the owner of one of Canadian Tire's 190 franchise stores in Ontario. While I cannot say that I unequivocally speak for 100% of them on every single issue, I have been their appointed spokesman on this issue for the past three years.

Before I begin with exactly why I am against Sunday shopping, let me say that the most important aspect of any law, and of this particular law, is fairness. Most retailers who want to be open on Sunday do so because they are worried they will lose market share to someone else, who by some quirk of the law is allowed to stay open or who openly defies the law and opens anyway and feels he will not be punished. So far most of them have not been.

This law that will be enacted by the government must make certain that Sunday closing means just that, and that those who violate the law are punished severely enough to make them stay closed. This includes drugstores, nurseries, furniture stores, sporting goods stores; whatever it might be, they all must be closed.

As a businessman, my major objective is to run my business as profitably as I can. While I am against Sunday shopping for many other reasons that can be argued up and down and all over the map, I am mostly against it because it is not profitable for my store to be open on Sunday.

How do I know this? I was open on Sundays from September 1990 until March 1991. While we certainly sold merchandise on Sunday, it was totally at the expense of Saturday sales, with a little bit of Monday sales too. In other words, in almost all of those seven months, sales on Saturday, Sunday and Monday were less than the previous year's Saturday and Sunday total. This was in spite of the fact that almost every Saturday during that period of time, we ran extra-special specials to try to entice our customers into our stores on Saturday so that we would not lose the Saturday business. But it did not seem to matter.

Worse yet was my cost to open on Sundays, because now people had to be brought in to service our customers, people you just could not totally cut from Saturday and Monday. Also, the lights were turned on, the power used, the water used, the cash registers running, cleaners cleaning, computers computing. Management staff, in particular, had to be spread out over seven days instead of six. In other words, my costs went up and my profits went down, and I had a lot of unhappy staff who did not want to work on Sunday, even though they came in as volunteers. It was a scheduling nightmare, with people knowing we could not make them work on Sundays.

So in a purely economic sense, Sunday shopping does not work, at least for most of the Canadian Tire stores in Ontario. I cannot see that we are different from our friends that want to stay open in that regard. What it is all about is market share. If we are all closed or we all are open, may the best marketeer win. The consumer does not have any extra money, so if it is spent on Sunday or Wednesday, it does not matter. He is not going to spend more because we

are open on Sundays. He does not have any more. Perhaps, in these times, he has less.

The cross-border shopping issue is not a Sunday shopping issue. It is a price or a service issue. One of my best friends is a small building contractor who has bought many items in my store. When I asked why I had not seen him lately, he said it was simple: he could buy cheaper than even I would sell it to him—and I give him a special discount—over in Buffalo. He goes over there usually once a month, mostly on Mondays, because he says it is less busy over there on Monday, less crowded. That is where he buys most of his contracting items. For him, price was the issue. I believe that is why people shop in the United States, not because they are open on Sundays. They go there anyway, and certainly did so between July 1990 and March 1991, when we were open on Sundays. People did not stop going to Buffalo or wherever else it might be on Sunday during that time. They continued to go even though we were all open.

You know the expression, "Try it; you'll like it"? Well, I have tried it. I did not like it. It was just not economically viable for us to open on Sundays. We have proven that, so let's just get on with serving the customers as well as we possibly can six days a week. Really, that is the bulk of my submission. It is not profitable. We have done it, and it does not work.

Mr Daigeler: Thank you very much for this presentation. Quite frankly, it seems to be very different from what we have heard so far from the business community. Even the gentlemen this morning were arguing that Sunday openings have been a big success, financially speaking. The clothing retailers especially seemed to be arguing very strongly that they need this extra day.

Mr Hayhurst: It is very difficult for me to speak for everybody else.

Mr Daigeler: Where do you think that apparent contradiction seems to be coming from?

Mr Hayhurst: Well, I do not know why the Bay, for instance—I assume that is one of the people you are talking about.

Mr Daigeler: Well, Tip Top Tailors. They are all related; let's put it this way.

Mr Hayhurst: There is a difference between the types of merchandise we sell in terms of the way people will purchase it? I frankly doubt it. The people who have \$400 a week take-home pay do not get any more because we are open on Sunday. If they spend it on Sunday, they do not have it to spend on Monday or vice versa.

I have some numbers here which I will give to you. For instance, we would do \$52,000 on a Saturday last year. This year we did \$42,000, and then the Sunday we did \$12,000, but on the Monday we lost another \$5,000. That would be a typical scenario of a weekend's business. It would just fall off drastically, particularly on Saturday, but Monday would also be hurt. These fellows who say they are getting back all their business by opening on Sunday—I do not know what their figures were for the Saturday. We all know that business has been very difficult in the last year anyway, but taking into account the GST and all that,

I am still down, and it cost me more money to open on Sundays when we were open.

We certainly had people in the store. In fact, some days it was quite busy in there. But Saturday—I am sure most of you have been to a Canadian Tire Store on a Saturday. Years ago you would go in there and it was jammed. You could not get in the place.

Mr Sorbara: Awful.

Mr Hayhurst: Well, it is not awful any more. I wish it were awful any more, but, gosh, last Saturday it was pretty slow. But on the Saturdays when we were also open on Sunday, it was deadly. We were sending cashiers home, sending people home. There just was not the business. Obviously, we were trying to balance our Saturday and Sunday staff, but there are certain people and certain items that you just cannot totally replace on a Saturday. You have to have them there both days, particularly the management staff. That is where the difficulty is.

Mr Poirier: I am really confused now after your testimony, because just about everybody else from business has said just the opposite, like the Bi-Way and the other chains and whatever. I am really trying to understand what is happening. Why would Canadian Tire seem, after a number of days of witnesses, to have such a completely different picture from what we have heard from stores similar to yours? I specifically asked questions of owners and whatever, and said—again, intrigued—"How can you say that if you open up on Sunday, it makes more economic sense, it lowers your cost per day and Sunday becomes one of your better days?" Of course, you are quite correct that there is only a fixed amount, but if the customer prefers to spend it on Sunday as opposed to a Monday or a Saturday, hey, we cannot tell the customers—hell, the customer is king. The customer is queen. I would assume that business would want to be sensitive to what the customer wants to do.

I am really confused as to why what you are experiencing is so damned different. I am a regular Canadian Tire customer, my wife works for Canadian Tire, and I am really confused about—

Mr Hayhurst: I cannot honestly speak for the other fellows. Make sure you understand me. I did not say Sunday was a poor day. It was not a poor day. It just watered down the other days, particularly Saturday.

Mr Poirier: Because a lot of them said that Sunday became their better day.

Mr Hayhurst: Oh, no, it certainly was not like that. Typically, when we were open, if we did, say, \$60,000 on a Saturday, we might do \$18,000 or \$19,000 on Sunday. We were open less hours on a Sunday. Usually we would open from 12 to 5 or 11 to 4, whereas on a Saturday we are open from 8:30 to 6. But even on an hourly basis, it certainly was not one of our better days. On an hourly basis, generally speaking, it would still be the slowest day. We promoted it, too.

Mr Sorbara: I am a little bit surprised at the direction of your testimony, because what I extract from it is: "For us, opening on Sunday does not increase the overall profitability of our business, so we prefer not to be open on

Sunday. As a result of that, we prefer everyone else not to be open on Sunday."

Mr Hayhurst: That is correct.

Mr Sorbara: I would suggest to you that there are a number of businesses which are not more profitable if they have extended hours, 6 till 9 or 9:30 during the week. For them, opening in those hours is not profitable. They in fact close at 6. They do not stay open the extended hours like so many other stores are staying open, particularly stores downtown. But those businesses are not suggesting that therefore the government bring in legislation so no one can stay open later hours. I am surprised you are saying that because your business cannot be profitable, because you have not been able to find a way to create a vibrant Sunday market that makes your business more profitable, therefore no one should be able to stay open. Should we apply the same sort of thinking to the evening hours, which are becoming an increasing part of the business of Canadian Tire, say, Thursday and Friday night?

Mr Hayhurst: I do not find anybody that closes at 6 except, as you say, the stores downtown. I think they do that because everybody leaves the downtown area to go to the suburbs or go home. I can assure you that if the business was downtown, ie, the people were there, they would stay open.

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Mr Sorbara: I can assure you that if the business were there on Sunday, you would stay open.

Mr Hayhurst: The business is there, but it is there at the expense of another day of the week or a couple of other days of the week.

Mr Sorbara: So everyone should close?

Mr Hayhurst: If the law is going to be made, I think I have to stress again that the law has to be uniform in terms of everybody having to close. You cannot have the drug-store open and the furniture store open and tell the department store it has to close.

Mr Sorbara: We agree strongly with you on that. If somebody else is selling tractors and hoses and it is called a "nursery centre" because it is selling plants, that makes your business uncompetitive, and you simply cannot continue to thrive in that kind of market.

Mr Hayhurst: Exactly.

Mr Sorbara: Would you say the preference in Ontario among the broad population is that they not to be able to buy anything on Sunday? Do they want the nurseries closed and the Beckers closed and—

Mr Hayhurst: No. We have been through this before many times, but the preference probably is that people would like to be able to shop on Sunday. I think also the preference is people would not like to work on Sunday. I think we are open 72 hours a week. If you want, let them be open for 144 hours a week, but closed between midnight Saturday and midnight Sunday. Then they have 144 hours a week they can be open. Surely that is enough time for people to buy hoses, clothes, whatever they want to buy.

Mr Sorbara: I will just tell you that in my own very personal case, if the Canadian Tire store was closed once again on Sunday, it was the one store that I did not want to close on Sunday.

Mr Carr: Thank you very much for your presentation. I will be quick and then Mr Murdoch will have a question. Then, if there is any time, I will jump back in.

As a former student, I used to work in Canadian Tire, so I appreciated it. It is a fine store and we wish you all the best.

One of the questions I have—and correct me if I was wrong—is that when some of the retailers met with Mr Farnan, the former Solicitor General, Canadian Tire was supportive of Sunday shopping. Has the position changed, or am I wrong that when they met with—

Mr Hayhurst: I am not sure who you were talking about—"Canadian Tire." If you are talking about the Canadian Tire Corp—

Mr Carr: Yes.

Mr Hayhurst: —it might be supportive of Sunday shopping, but it does not run any of the stores.

If you are talking about any of the dealers, as I indicated at the beginning of my presentation, I cannot say unequivocally that I speak 100% for all the Canadian Tire dealers in Ontario. I talked, in fact, to two or three of them this morning. Their position, because they knew I was coming, was that yes, they would like to close, but only if everybody were closed. If they are going to allow nurseries to be open, National Sports to be open, that sort of thing, then absolutely those people want to be open too. But as long as the rule is applied fairly, I think the vast majority of them want to be closed.

There will be exceptions. We are all "independent businessmen." We all run our own stores the best way we possibly can in hopes of making the best profit we can. I am sure that over the past couple of years some people have changed their opinions. The fellow who has a store in Fort Erie or in Fort Frances might have a different opinion than the fellow in Lindsay, Ontario. There may be some differences relative to the cross-border shopping situation. Still and all, the vast majority would like to stay closed, but that does not mean 100% are in that direction.

Mr B. Murdoch: To be fair to some of the other large retailers, they have said that if there is going to be a law, then make it a law and close. Some of them would prefer to be open, but they did say if there is going to be a law, that is fine. But there is a consideration in this bill also about the tourist areas. I take it from what you have said that you would like a law on Sunday shopping where there would not be any on Sunday at all, but then what do we do about our small people who are in the tourist areas? I mean, they would not survive. I know that in my area there are small towns and they have little stores there where the tourists buy and Sunday is their biggest day. They definitely would go broke. They just would not have a job. You are saying we should have a law: no Sunday shopping. What do we do with all those people then?

Mr Hayhurst: I am glad I am not in here trying to sort that all out. I realize that is a very difficult issue, trying to sort out the Bracebridges of the world or Huntsvilles or

any of those definite tourist areas. I think the solution that maybe they are allowed to open in the summertime is one possible way of doing it. That is a real difficult one and I totally understand where those guys are coming from. When the tourists descend upon Bracebridge in the summer, the guy's got to make hay. I do not know how you get around that.

Mr B. Murdoch: Maybe in a free enterprise country, as we are, we should not be involved in this at all. Governments should not be making the laws about when people can shop. Let the marketplace—

Mr Hayhurst: The government makes laws for everything else, so I do not know why they would not want to get involved in this one.

Mr B. Murdoch: We would sooner see them not involved.

Mr Hayhurst: I cannot give you the answer as to how you handle the tourist situation. We in the group I have been involved with in the last couple of years have been wrestling with that for quite some time and it is a very sticky wicket, as everybody in this room knows.

Mr B. Murdoch: I think the solution would be if we were not involved and the marketplace takes care of itself. That is what free enterprise is all about, and you would compete like everything else. If you felt you had to be open on Sunday you would be and if you did not you would not be. I think that is the only solution, because once you start opening it up like we have in this bill, where people can designate themselves as a tourist area, Windsor I think has already said the whole town is a tourist area, and that is going to happen. We are going to get it piece-meal all over the place.

Mr Hayhurst: Obviously that situation is going to arise. I guess if you are asking me what my answer is, my answer is shut them down and be done with it, because you are not going to satisfy everybody and there is always going to be a problem. If you have to make one law that is absolute and final, then they cannot open in Bracebridge or they cannot open in Fort Frances or they cannot open anywhere on a Sunday, period. I do not think that is likely to be the answer, but if you are asking me my opinion, that is what it is.

Mr Mills: Thank you, sir, for coming here. I am very interested in hearing what you have to say, and I am interested because what this is all about is not Sunday shopping. What we are talking about with this legislation is Sunday working. It seems to have got twisted around. All we hear about is people shop, shop, shop. This legislation is about working. I was very interested to hear you say, sir, that the days you worked when you opened on Sunday, your employees went there of their own free will, they hated it, they did not want to be there and they grumbled.

Mr Sorbara: No, he did not say that at all.

Mr Hayhurst: Let me say it again then.

Mr Mills: I am sure he said that.

Mr Hayhurst: I said the main difficulty is with the management staff. In this day and age, the last year or two when there has been so vast an amount of unemployment,

we did not have difficulty getting students to work on Sunday. I suspect if you went back four or five years ago when the shoe was on the other foot and the employees were kind of in charge of the situation when there was virtually no unemployment, we would have had a lot of trouble getting people to work on Sundays, but now the jobs are few and far between. Even so, with my management staff—I am talking about the people who have to run the store and open it and close it and handle the problems—that was where the difficulty was, getting them to come in on Sundays and trying to sort them out. They were the ones who were grumbling quite a bit. The students we were able to—

Mr Sorbara: So this bill is to protect the managers.

Mr Hayhurst: No, the other ones were not—

Mr Sorbara: It is the managers.

Mr Hayhurst: The other ones were not overly ecstatic about it, but they came in because when we initially hired them we asked them, "Will you work on Sundays?" We wanted to make certain that we were not going to run into that problem. But like I say, I suggest that three years from now, if the economy turns around and things were like they were in 1986, it is going to be a lot more difficult. People will say, "Thank you very much, I'm not working on Sunday."

Mr Mills: Right. People did not like it. Just to follow that up, sir—

Mr Sorbara: The managers did not like it, I think is what he said.

Mr Mills: No, no.

Mr Hayhurst: Nobody liked it, but the students—

Mr Mills: Nobody liked it, and I can go further. I have a Canadian Tire store near me and I happen to have a friend who works there, and he said that on Sundays they have had to dispense, when they were open, with the ability to return goods because they could not get people to man the desks—responsible people, full-time people to take on that responsibility.

Mr Sorbara: Offer more pay.

Mr Mills: So I am saying, for the record—

Mr Sorbara: Offer more pay.

Mr Mills: —that people in Canadian Tire stores did not like to work on Sunday, and that is a fact.

Mr Sorbara: You believe in higher pay. Offer more pay.

Mr Mills: That is a fact.

Mr Sorbara: Offer more pay.

Mr Mills: I would like to go on—

The Chair: Excuse me, we have a witness in front of us, gentlemen. If you wish to have an argument, we can do it later.

Mr Sorbara: My friend Mr Mills is making another speech.

The Chair: Mr Sorbara, Mr Hayhurst is in front of us, and I am sure Mr Mills had another question for him.

Mr Mills: No. I would just like to expand on the Canadian Tire philosophy—

The Chair: Perhaps you could ask Mr Hayhurst to propound on that philosophy.

Mr Mills: —that the sales that you make on Sunday are slippage from Monday, Tuesday, Wednesday, Thursday. It always puzzles me when I hear the people come in here about retail and making money—

The Chair: Do you have a question, Mr Mills?

Mr Mills: —that you have \$400 or \$500 a week to live on, and if you have got to spend it from Monday to Saturday, how the devil have you got extra to spend on Sunday? If you go around Canadian Tire, its parking lots are full and all the other stores are empty. So I am sure, sir, that if your parking lots are full, in my perception, and you cannot make it go, I appreciate that it must be difficult—

The Chair: Do you have a question, Mr Mills?

Mr Mills: It must be difficult for the so-called other people. I thank you for your presentation. I have listened to you and I have made note of all that you had to say, in particular about the people who do not like to work on Sundays. Thank you, sir.

The Chair: Thank you, Mr Mills. Further questions? No? Mr O'Connor.

Mr O'Connor: I think maybe what Mr Mills was trying to get you to share a little bit more with us was the slippage aspect.

The Chair: I am sure you could have done that if he had asked the question.

Mr O'Connor: As a retailer, could you just expand on that a little bit, because I just cannot figure out where the extra money is coming from yet.

Mr Hayhurst: I just understand that when we were basically forced into opening on Sundays last year—actually, I held off for two months. Some of the stores opened on July 6, I think it was, last year when they were able to, and some did not start until September, and there were a few that did not open at all. There were still a few right in

the city of Toronto that did not open at all on Sunday when we were allowed to open there last year.

Basically, what happened was that the Saturdays, where traditionally you do \$8,000 or \$9,000 an hour, would slip back to \$6,000 or \$7,000 an hour, and therefore you would be down \$20,000, and then you would do \$20,000 on Sunday. It seemed to happen that way consistently. The Sunday sales changed a little bit as we got into December. Naturally, they went up a little bit towards Christmas. But we had some Saturdays—I will give you an example without trying to divulge too much here. The NDP will probably tax us if I tell them how much we did on Saturday.

Mr Poirier: The Minister of Revenue ain't here.

Mr Hayhurst: Oh, good; okay. The day before Christmas in 1989 we did \$132,000. That same day before Christmas in 1990 we did \$86,000. Those were both Saturdays, the day before. It was a huge difference. Here is a Saturday two weeks before Christmas, \$85,000 versus \$128,000, and then on the Sunday we did \$32,000. If you add \$85,000 and \$32,000 together, I do not think they come to \$128,000. They still do not make it, and there are a lot of extra costs involved in opening that Sunday, so my profit is lower.

Mr O'Connor: Who is your major competitor?

Mr Hayhurst: We have many major competitors: Home Hardware, Beaver Lumber, the muffler stores, Sears, Eaton's, Zellers. Depending on what category you are talking about, we have all kinds of major competitors. We do not have one particular competitor, we have many.

Mr O'Connor: So fairness in market share is the—

Mr Hayhurst: Yes. Market share is what we are striving for in each individual category.

The Chair: Thank you very much, Mr Hayhurst. We are adjourned until 1:30 this afternoon.

The committee recessed at 1212.

AFTERNOON SITTING

The committee resumed at 1403.

SOUTH ASIAN ACTION CENTRE

The Chair: I would like to call our committee back to order. Our first presenter is Mr Mohammed Kazim Khan, who represents the South Asian Action Centre.

Because of timing problems, Mr Khan, we are unfortunately limited to a quarter of an hour. Please use that time for your presentation. The members of the committee, I am sure, will have a lot of questions for you, so if we can have some time left over after your presentation of that quarter-hour, it would be appreciated. Feel free to start whenever you wish to, and if you wish some water or whatever, please feel free to get that as well. Go ahead, sir.

Mr Khan: Good afternoon, ladies and gentlemen. My name is Mohammed Kazim Khan. I am representing South Asian Action Centre.

South Asian communities consist of people from India, Pakistan, Bangladesh, Sri Lanka, Afghanistan and Iran. In these countries, Muslims, who are in great numbers, observe Friday as a holy day and Sunday as a working day. Gradually other people started observing Friday as a holiday and Sunday as a working day since they used to live in Muslim-dominated areas, and this became a regular practice. People go to mosque, mandir, temple, or girjaghar on Friday.

When these people came from their country to Canada, they brought their tradition to this country, and all shopping centres belonging to south Asian people used to close on Fridays and open on Sundays, not from today, but from the inception of their business. So far, since all these shops used to close once in a week, it was okay with the law.

Although many times representatives tried to get India Bazaar, situated at Gerrard Street East and Coxwell, recognized as a tourist area, their requests were ignored. This is another sad part of it, that even though India Bazaar is complying with all the requirements to be recognized as a tourist attraction area, it is not graded as a tourist area. This is the best example of hypocritical practice in Canada.

Regarding the proposed Bill 115 part I, subsections 4(6) and (7), which say council shall hold public hearings and council is not required to pass the bylaw even if tourism criteria are met, this is ridiculous. Once a law is passed, a standard is set, and even if somebody fulfils the criteria, still council is not required to recognize it. We feel it is discriminating, and a window is kept purposely so that people like us can be refused, and we cannot do anything further because subsection 4(8) says council's decision is final.

Clause 4(9)(a) and subsection 39eb(2) are also creating trouble for our people in maintaining standards, since any employee can refuse to work on Sunday any number of times and nothing can be done.

We feel that unnecessarily we are forced to forget our culture and accept a Christian culture. Sunday is a holy day for Christians, not for Muslims, and not for any other religion. Thousands of people are working from Monday to Saturday, and then they come to India Bazaar to get their cultural requirements on Sunday.

Passing this bill is illegitimately trying to force that these people should not get south Asian costumes, and then slowly forget the whole culture. We are all against it. This is a planned murder of our culture.

We recommend that through the bill, cultural attraction places should be allowed to open for seven days automatically and no fees or taxes should be charged to penalize for maintaining cultural needs. No steps should be taken to instigate employees to avoid Sunday working.

Thank you very much.

Mr Daigeler: Thank you for your presentation. I notice that you indicate, rightfully so, that Friday is a significant holiday for Muslims, but you are arguing, really, for seven days' open shopping. Could you tell me what the current practice is in the Muslim religion with regard to Friday? You would work on Friday as well?

Mr Khan: Those people who want to go to mosque, who want to strictly observe religion, have to go to Friday prayers at one centre, which is the closest one. They have to go there. It takes about one hour for praying or something, and that is why many people close on Friday.

Mr Daigeler: So the majority of Muslim operators would be closed on Friday, so that would not necessarily be the same as what you are arguing. You are arguing for seven days open that would include Fridays. What I am trying to get at is that you seem to be arguing from a commercial perspective rather than from a religious perspective or a cultural perspective, because if you are coming from a cultural perspective, I think you should say, "Well, we should have the right to be closed on Fridays."

Mr Khan: Okay. If it is closed on Fridays, then all the Muslims can go, and even if it is open for seven days, routinely people can be given off and they can take this thing. And those people who do not want to go to mosque, they can come to work, so it should be kept open for the people who want to go on Friday. But it should not be complied that they should close on Friday since it is fulfilling the tourist needs.

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Mr Sorbara: I am sorry I did not hear all of the presentation but I agree strongly with your view that to suggest that Sunday be the common day of pause is for a significant portion of the Ontario population somewhat of an affront and somewhat, might I go so far as to say, an insult.

I also think you make an extremely good point in the second last paragraph of your submission where you criticize that portion of the bill that says a council can refuse to grant an exemption even after a public hearing has voted in favour of it. But would you not agree with me that the best way of dealing with this is simply to invite the province, through this committee, to stop trying to pick the winners and losers on Sunday shopping and allow those storekeepers who look forward to opening on Sunday to open on Sunday without further administrative or bureaucratic burden?

Mr Khan: As I say, the law is already enforced. I do agree with you that it is bad without taking the public

hearing. It was already in force. People who are opening on Sunday are getting a ticket, even though they have been opening for the last 20 years, since the inception of India Bazaar. People used to open on Sunday and close on Friday. Now they are getting a ticket and a summons. I do agree that it is a hypocrisy.

Mr Sorbara: That is a special burden on them, because for religious reasons they do not have enough time in their day to maintain their stores open on Sunday. Is that not the case?

Mr Khan: Exactly, yes.

Mr Sorbara: And so they have to close two days while other stores are closed one day, and even other stores do not have to close any days because of the tourist exemption.

Mr Khan: Exactly.

Mr Sorbara: Would you describe that as a fair and equitable system?

Mr Khan: I would not. Also I would like to say that suddenly the people from south Asian countries face a ban that they cannot do their shopping because the stores are closed.

Mr Sorbara: Would you say that the proposal that the government—

The Chair: Mr Sorbara, I am sorry. Mr Carr and Mr Murdoch.

Mr Sorbara: You caught me in midsentence. Congratulations.

The Chair: You actually had a couple of minutes more.

Mr Sorbara: I just wanted to ask you whether you would think that the bill the government is proposing is consistent with its views about equity and fairness to all Ontarians that it is trying to achieve in other of its programs. We talk about equity as between different peoples—

Mr Khan: Through the bill we are not getting equality. That is why we are here.

Mr Carr: I was just wondering, with some of the businesses that you say are closed on Friday, presumably some of them are open. Would they be getting people who are not of the Muslim faith to work Friday or do they have some—

Mr Khan: Yes, or those people who are not very strict in their religion. They can be employed. If they have employees, they would choose to work on Friday.

Mr Carr: Is it a large percentage that would still close on Friday, or is it that because of economic necessity they have opened, or is it pretty much adhered to that they will not open on a Friday?

Mr Khan: The larger number want it open.

Mr Carr: On a Friday.

Mr Khan: The customer and the public want it open.

Mr Carr: So even if you were an owner and wanted to take the day off, they would get somebody who is non-Muslim to work or whatever and then they would go and somebody else would work during that day.

Mr Khan: Yes.

Mr Carr: That is much easier to do than it is with Sunday shopping where there is—

Mr Khan: Yes, it is much easier.

Mr Carr: Yes, because you have a vast majority of the population that would be prepared to work on Friday.

Mr Fletcher: I agree with your statement and presentation. If this government were bringing in this law strictly on religious grounds, I would be in full agreement, but we are not. I think the thrust of this legislation is one purpose, and that is to protect working people. That is why changes have been made. I do not think it has anything to do with the way this government treats any group of people. It is a blanket piece of legislation and, as I say, the major thrust is to protect working people. I think that is why the common pause day is the piece of legislation it is. I know you do not see it that way, but I know that is what the ministers said when they were here. It is to protect tourism and working people, and that is the major thrust of it. It is not on religious grounds or cultural grounds that this law has been made.

Mr Khan: I am sorry, I did not get your question. Can you put it in simple words?

Mr Fletcher: It was not a question; it was a statement.

The Chair: Do you have a question?

Mr Fletcher: No. I was just making a statement on that.

Mr Lessard: Do you agree in principle with the concept of a common pause day; that is, having the right of employees not to work on one particular day of the week?

Mr Khan: I do not agree. That is what I mentioned in the bill under clause 4(9)(a) and subsection 39eb(2).

Mr Lessard: Your objection, as I understand it, is that there should not be a right to refuse to work on Sunday because your religion observes a different day. That is what I am asking, whether you agree that people should at least have one day, even though that day might not be Sunday. Maybe you would have a different day. Do you think people should have that right to have a day off?

Mr Khan: One rule cannot be made for everybody. There are different types of people, people of different opinions, people of different religions. Some people are religious. They have to do certain things to belong to the religion, but still they do not follow the religion; like, they have to meet the relatives on Friday, even though they do not go to prayer. So there should not be one day it should be closed.

Mr Lessard: But you do not think employees should have a right to refuse to work on Friday, for example?

Mr Khan: No, I do not agree with that. If the establishment is open for seven days, somebody has to work on that day. Yes, once or twice, it is okay, they can refuse, but not for any number of days. That is what I say.

Mr Lessard: Not one day a week. They should not be able to refuse at least one day a week.

Mr Khan: No.

The Chair: Thank you very much, Mr Khan. It was a very interesting presentation.

Mr Khan: I think some of the committee have some questions.

The Chair: No, we have run out of time, unfortunately. We have people waiting. Thank you very much for your presentation.

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CORSO SHOES

The Chair: We have a representative now from Corso Shoes. You have basically seen what the process is. Could you identify yourself.

Mr Ferri: My name is Vince Ferri and I am the operator and owner of a shoe store in the Beaches area.

The Chair: As you know, you have a quarter-hour for your presentation and, as you have seen, committee members will have a number of questions for you, I am sure. Please feel free to start when you wish.

Mr Ferri: I have been the operator and owner of a small family shoe store in the Beaches area. We became a victim of circumstances through the Sunday shopping situation where we are in an area that is a tourist area but not designated. Unfortunately, in the last six years we have been getting charged on a regular basis and made to feel like criminals, even though we are only trying to survive. It is a vital situation to us.

During the nine months we had Sunday shopping, it seemed we never had any people coming in to protest that we were doing something wrong or they could not spend time with their families. On the other hand, we found that families were coming in with their children where we provide a service for them and it seemed to be a leisure time for them to enjoy shopping and be together for the first time.

My point is there seems to be a sense of discrimination, where I have been caught in a situation where I am in a tourist area but not designated. On the other hand, retail seems to be the only sector where you cannot work Sundays. If I were to get a job at Harbourfront or Chinatown, I could work Sundays. That would be fine.

Shoppers Drug Mart, for example, can sell shoes on Sunday and we cannot. I have been informed recently that we would be able to sell shoes on Sundays by obtaining the front space of a store. A vendor permit allows us to get tables outside and put shoes on it and sell them, but not by opening the door to the public. I question this a lot. I would like to perhaps get some answers if it is possible, whether we are really doing something totally wrong here or we are only trying to survive and bring food to our tables if we can.

Nine months' Sunday shopping means we bought much more inventory than previous years. We are stuck with this inventory now. We do not know how to turn it over, and it seems that we are still getting charged. There does not seem to be any changes, and we were never notified six months before the new legislation came into effect. We were never told, "Come January, the new legislation will change and that means you are going to have to close and we ask you to buy less inventory or play accordingly." That came within two weeks' time, basically, and we had to take the consequences.

That is basically what I have to say, that it seems the government would rather see us collecting welfare than

operate a small family shoe store. This consists of 800 square feet and is based on a husband, wife and son operation. If anyone can give me some answers, anything, I would appreciate that.

Mr Sorbara: Sir, have you ever gone to the Chinatown area, the Dundas-Spadina area on a Sunday?

Mr Ferri: Yes, I have.

Mr Sorbara: Would it surprise you if I were to tell you that the vast majority of people who are shopping down on Dundas in the Spadina area on Sunday are typically Chinese Canadian residents who live somewhere else in Metropolitan Toronto? Would that surprise you?

Mr Ferri: No, it would not surprise me, but that would not take away my right for me to shop down in Chinatown if I wanted to or to work in Chinatown if I wanted to.

Mr Sorbara: So you would agree with me then that the vast majority of people who are shopping in the Chinatown area on Sunday are certainly not tourists; they are just typical Ontario residents who like to go down there on Sunday.

Mr Ferri: Yes, I would have to agree with you.

Mr Sorbara: Are you asking from this government anything more than the right to be able to run your store when you want to run your store and how you want to run your store?

Mr Ferri: Yes. At the same time I would like to ask this government simply to leave up to us when we think it is fair to take the common pause day and spend that day with our family. Whether it will be Monday or Tuesday, we should be entitled to that, rather than taking away our business just to say, "We want you to stay closed on Sunday, regardless of what happens."

Mr Sorbara: Is that the view of most of the other retailers in the Beaches area?

Mr Ferri: In the Beaches, there are over 200 stores in operation. There are only about 10 stores that are practically closed on Sundays. The stores are closing down because of the Sunday shopping. They are being replaced with so-called handicraft. There is such a confusion in the law about this. Officers who come down and charge us on a regular basis cannot identify what handicraft is all about. We have been trying to get informed in this and it seems that it is legal to sell any briefcase that comes from South America, but a pair of shoes simply made—

Mr Sorbara: A pair of shoes made in Canada cannot compete.

Mr Ferri: —cannot compete with that, or a belt that is made here. So there has been a confusion, and not even the officers themselves can seem to answer the questions. They have been coming down and sitting with us. They are totally lost, not knowing what they are doing.

Mr Sorbara: I take it that you belong to associations and have an association with a number of other shoe store operators in the province. Is that the case?

Mr Ferri: Yes, we do.

Mr Sorbara: Is it their view as well that they should be able to manage their stores and open their stores when they see fit?

Mr Ferri: I firmly believe that no one should be forced to work on Sundays or vice versa, but I do believe that if it is vital in the matter where it is a family operation and such a small store, we are not forcing anyone to work. We are not saying you have to work, by all means, or we are not asking the shoppers who come and shop either. It was their consent, it was their approval, it was their vote that they want us to be open. That is why they come down. That is why they are there to shop.

Mr Sorbara: Can you just describe to the committee what happens when the police officer comes into your store on Sunday to charge you? Is he excited about the notion that he has apprehended a violent criminal or a serious criminal in Ontario?

Mr Ferri: Basically, this is what happens. They have a list of names of the stores they regularly see every Sunday, and if anybody else has been there for the last two or three months, recently opened, they do not even look at the stores. So they have maybe 10 or 15 stores that are regularly open Sundays and trying to survive, and these are the ones. They have a list in the divisions and they come down and that is what they do.

Mr Sorbara: So you are saying they just work on a list of regular violators rather than actually find out who is open in violation of the law.

Mr Ferri: That is right, yes.

Mr Sorbara: That is interesting.

Mr Carr: Than you for taking the time away from your business to come down here and present. I appreciate it very much.

One of the concerns had been with regard to employees and how that would be handled. How many employees do you have and how do you handle that with them so that they do not have to work if somebody, for religious reasons or whatever, does not want to work on Sunday? How do you handle that with your staff? Would you hire new people? Would you work it out with them? Would you force them to work? How many do you presently employ and how would you work that out if Sunday shopping was allowed?

Mr Ferri: As I said earlier, it is a family operation, so it is strictly family, but we did have part-timers coming in. These were students who really wanted to work on Sundays so they could make some money for their tuition for school and education and so on. There seems to be such a drawback coming in on a regular basis: "Can we work, can we work?" Unfortunately, we cannot open. If we stay open, we get charged and we do not know what these charges will be like. We are getting charged, but we do not know yet. They could be very stiff fines. The store volume is very little. For example, if we make \$1,000 in a day and we get charged \$5,000, you are talking about—so this is one of the reasons we are so off balance.

I believe that during the week we do give days off. Rather, it is Monday or Tuesday. On the other hand, Sundays we never open in the morning; we work from one to five.

These are the hours. So anyone who practises his religion does have time to go to church or to do whatever he does.

So this is an afternoon basically together. We find that it is entertaining and leisure for a family to be able to shop. If they can drink on Sunday, if they can gamble on Sunday at the racetrack, if they can do just about anything else—when I say drinking, they can practically drink on the sidewalks and the patio. Kids are being exposed to that. You tell me if there is something wrong with buying a pair of children's shoes? Can you honestly say there could be something wrong with that?

Mr Sorbara: You want them to vote with their feet.

Mr B. Murdoch: How many square feet would your store be, then?

Mr Ferri: It is 850 square feet.

Mr B. Murdoch: Is there no way you could have your area designated as a tourist area?

Mr Ferri: We are going through an application. The business improvement area has applied, but unfortunately in the last six years it has not seemed that we are getting anywhere. We do meet the criteria and everything else, but again, I think that is discriminating, if someone can work in the Beaches, even though I have that particular case, and not work in Agincourt and not work in different parts of Toronto.

Mr B. Murdoch: Yes, I hear what you are saying there. To solve your immediate problem, have you paid any of these fines they levy?

Mr Ferri: We have paid a few of them and we have a few coming up now.

Mr B. Murdoch: What do they run?

Mr Ferri: They vary from \$200, before to \$500. Last year we had three or four fines which were indefinitely dismissed by the judge, after nine months' Sunday shopping. They came up again now in May and these fines consist of \$2,000 each, which I am facing now.

Mr B. Murdoch: I just wanted to know that. Okay.

Mr Fletcher: Thank you for being here today. How many employees do you have?

Mr Ferri: It is husband and wife, and son part-time. We have one full-time.

Mr Fletcher: You said you belong to certain associations and groups. Are you a member of the Canadian Shoe Retailers' Association?

Mr Ferri: Yes, we are.

Mr Fletcher: So you are familiar with their stand on Sunday shopping and the surveys they have done.

Mr Ferri: I am familiar with their standards, yes.

Mr Fletcher: We had Sharon Maloney, who is the president of that association, testifying a couple of days ago that the Canadian Shoe Retailers' Association is against Sunday shopping and Sunday working.

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Mr Ferri: I do not think she is familiar with my particular case, though. I think she is—I heard her comments about it, yes.

Mr Fletcher: You do not agree with their stand on that.

Mr Ferri: No, I do not, in my particular case. In general, we find it has never been any problem. There are more people upset now after the non-Sunday shopping than there were before. There was never protesting; there was never any people complaining about that. I find it hard to believe that everything seemed to be so smooth, then all of a sudden it is discriminating because everybody else can work on Sundays, any lawyer can work, a doctor can work, a taxi driver and everybody else, practically, except the retailer. He should have a choice.

Mr Fletcher: Is there anyone else who has questions here? As far as the legislation is concerned, it does not say they cannot work on Sunday.

Mr Ferri: It does not say they cannot work?

Mr Fletcher: No.

Mr Ferri: But they could work at Harbourfront or Chinatown.

Mr Fletcher: If they are applying for a job, and they work Sunday, they have the right to work Sunday. But they also have the right to refuse Sunday. It is not one or the other, it is both. People are free to work. All that is really holding you up right now is the tourist designation. Is that right? So really there is nothing wrong with the law except maybe the tourist—

Mr Ferri: No. What I see wrong with the law right now is, first of all, as you see the tourist designations. If we were to get the tourist designation I will be one of the fortunate ones, perhaps, to survive. Without the Sundays I cannot survive. I do not have much time left. Whether it would gel with it or close down, one or the other. My business is 30% to 35% done on Sundays. Basically the strongest days of the week are Saturday and Sunday. That is when we get the most traffic.

Mr Fletcher: What about Monday and Tuesday?

Mr Ferri: They are very quiet. I would rather close Monday, if I had to choose a common pause day. It should be up to us to choose.

Mr Fletcher: So you are not really opposed to a common pause day?

Mr Ferri: No, I am not.

Mr Fletcher: And you are not opposed to people having the right to refuse to work on a Sunday?

Mr Ferri: No, I am not opposed to that either.

Mr Fletcher: So what it really comes down to is the tourist designation.

Mr Ferri: Tourist designations, and the choice of people who want to work on Sundays should be allowed.

Mr Fletcher: The people have that right to work if they want to.

Mr Ferri: But how can they work if the stores are not open?

Mr Fletcher: Is that my time?

The Chair: Thank you very much, sir, a very interesting presentation.

LABOUR COUNCIL OF METROPOLITAN TORONTO AND YORK REGION

The Chair: We now have a presentation from the Labour Council of Metropolitan Toronto. Good afternoon. We have about half an hour, and you can divide that time any way you wish to. Typically, it is about half for your presentation and half for questions. I am sure many of the committee members will have questions for you. Before you start, and please do so when you feel comfortable, would you please give your name into the microphone.

Ms Wall: My name is Brenda Wall and I am executive assistant to the president of the Labour Council of Metropolitan Toronto and York Region. I had hoped today that an executive board member, Brother Jay Nair, from the United Food and Commercial Workers International Union-Canada, would be with me, but at the last minute he was unable to do so.

I would like to just read through our presentation which as you see will be very much in support of what the United Food and Commercial Workers brief was as well.

The Labour Council of Metropolitan Toronto and York Region is pleased to have an opportunity to appear before the standing committee on administration of justice to present our views on this very important matter of Sunday shopping and working.

I should apologize that our president, Linda Torney, is on vacation at the present time and could not be available for these hearings, but she sends her greetings and her message through this deputation.

We represent over 180,000 members in 400 union locals throughout Metro and York region, and as such we are one of the four largest central union bodies in Canada. One of our major affiliates in this region is the United Food and Commercial Workers International Union, and we fully support their efforts and views with regard to this issue of Sunday shopping and working.

We appreciate the government's action in bringing forward legislation aimed at establishing and enshrining a common pause day in Ontario and placing restrictions on both Sunday shopping and Sunday work. However, although an important step forward, the proposed legislation does not yet guarantee a common pause day for workers and their families in Ontario.

Our main concerns are similar to those expressed by our affiliate, UFCW, and they are the intent of the Retail Business Holidays Act; the municipal option; drugstore openings on Sundays; enforcement of the legislation, and the definition of a "retail business."

In this presentation we will put forward our labour council's views on these and other concerns related to this issue. Our primary message to the standing committee on administration of justice is to listen to the voice of the workers and families who will be most affected by these decisions around Sunday shopping and working, namely, the United Food and Commercial Workers.

First, the intent of the Retail Business Holidays Act: We are pleased that the proposed legislation includes the recognition of the need for and importance of a common pause day; it represents an important step forward for workers and citizens in Ontario. However, the wording put

forward around the common pause day principle is not strong enough, in our opinion.

In the proposed amendment to subsection 4(2), it says, "The council in passing a bylaw under subsection (1) shall take into account the principle that holidays should be maintained as common pause days." This wording is far too general and would not ensure that the intent of the RBHA is consistently followed.

Instead, we would like to see the wording strengthened and the amendment to subsection 4(2) regarding municipal powers to read as follows:

"The council, in passing a bylaw under subsection (1), must maintain the principle that holidays are to remain as a common pause day; that is, to ensure that they remain days on which most businesses are not open; days on which most persons do not have to work."

The legislation implemented by the previous Liberal government provides that municipalities have full control over the decision to allow stores to open on Sundays or other holidays. However, in this way the will of individual municipal councils predominates; there are no regulations, no criteria and no principles to guide them in the making of decisions. In this kind of system, the government has no way of stopping wide-open Sunday shopping and working.

In the proposed amendment, the decision-making process would remain in the hands of municipalities, and regulations and criteria of the tourist exemption are set out in sections 1 and 2 and subsection 4(1). These exemptions are so broad as to effectively restrict no one. We believe the amendments as proposed would lead to wide-open Sunday shopping and working.

We recommend that a new set of viable tourist criteria, regulations, be established by the affected stakeholders, including representatives of retailers, unions and government. Our full recommendation is as follows. In our view, the recreational, entertainment and cultural pursuits of tourists, as well as the goal of enshrining the common pause day, can both be accommodated by the law. To accomplish this, we recommend it be changed to reflect the following:

The new subsection 4(1) to read:

"Notwithstanding section 2 and subject to the provisions of clauses 4(1)(a) and 4(1)(b) below, the council of a municipality may by bylaw permit retail business establishments in the municipality to be open on holidays where it is essential to meet the educational, cultural, leisure and recreational needs of the tourist; and,

"(a) only retail business establishments in which the total area used for serving the public or for selling or displaying to the public in the establishment is less than 4,000 square feet; and,

"(b) the number of persons engaged in the service of the public in the establishment does not exceed four."

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The government must establish a committee of the affected stakeholders that will prepare and recommend a new set of viable tourist criteria, regulations. The stakeholders should include, as we said, the retailers, unions and government.

According to the amendment, the tourist criteria as proposed would not form part of the legislation. However, we recommend a new set of viable regulations established by the stakeholders mentioned above be integrated into the legislation.

Subsection 4(8) must be modified to state, "The council's decision may be appealed by any interested party to the tourist exemption board."

Third, drugstore openings on Sundays: Under current legislation, drugstores must dispense drugs and the principle business must be the sale of goods of a pharmaceutical or therapeutic nature for hygienic or cosmetic purposes. No other goods are allowed for sale with the exception of sundries. However, in many cases up to 80% of sales in these stores consist of products of a non-pharmaceutical nature. The system is being abused and we are asking for actions which will prevent this abuse.

To compound the problem, the absence of a restriction on the number of employees working on a Sunday or holidays allows some drugstores to dedicate extra help for the benefit of sales of these non-pharmaceutical products.

The UFCW and the labour movement are very concerned about these practices, and we recommend the following changes to clauses 3(2)(c) and 3(2)(d) of the present act be amended to read as follows:

"The total area used for serving the public or for selling or displaying to the public in the establishment is less than 2,400 square feet.

"The number of persons engaged in the service of the public in the establishment does not at any time exceed four, including the pharmacist, who must be present in the establishment during business hours."

In the Metro Toronto area, for example, there are currently many drugstores with a square footage of 2,400 or less that provide ample opportunity for the local population to receive needed medication or other prescription products, particularly in cases of emergencies.

The real reason for drugstores to remain open on Sundays is to allow the population the opportunity to fill prescriptions and have access to needed medication. We believe this recommendation accommodates this most basic need without allowing the abuses of the current system to continue. When we talk about the abuses, we are talking about stores that are open and really function as supermarkets rather than as drugstores for the needs of the population. Many of their sales are for goods that are available in regular kinds of supermarkets, and we want to restrict this kind of activity.

Enforcement of the legislation: At the present time the act provides for maximum fines of \$50,000 upon conviction for illegal Sunday openings, and municipalities or the Attorney General of Ontario can apply to the Supreme Court of Ontario for an injunction to close an establishment that is opening illegally. What is difficult to comprehend is that there are no minimum fines.

The labour council supports the principle of a minimum fine. The fines proposed under the suggested amendments, however, are far too low. The amount of the proposed minimum fines, \$500 for the first offence and \$2,000 for

the second offence, will in no way deter retailers from opening on Sundays.

Under the proposed legislation, too, there will be no change with regard to who can apply for an injunction. Hence, there remains the same problem of little enforcement and no action taken against offenders continuing. Therefore, we recommend the following.

The proposed amendment of the minimum penalty be modified to include, "For first offences, the minimum fine for conviction be \$10,000 and for subsequent offences, the minimum fine for conviction be \$20,000."

Subsection 8(1) to be amended to read, "Upon the application to the Supreme Court by any affected or interested party, the court may order that a retail business establishment close on a holiday to ensure compliance with this act or regulation under this act."

Fifth, the definition of a "retail business." Under the current act there is a problem regarding the definition of a "retail business." As a result, giant stores in the guise of membership clubs, such as price clubs, are allowed to open on Sundays. The proposed amendments do not deal with this problem and, as a result, club warehouses could continue to operate on Sundays.

To prevent circumvention of the act by establishments such as price clubs, clauses 1(1)(b), 1(1)(c) and 1(1)(d) of the present act should be amended to read as follows:

"(b) 'Retail business' means the selling of goods or services by retail to any member of the public, including a member of the club or co-operative or any other group of consumers.

"(c) 'Retail business establishment' means the premises where a retail business is carried on. Any space or stall in markets, particularly in covered markets and 'flea markets,' shall be considered to be a retail business.

"(d) 'Principal business' means that portion of business which accounts for 80% of the retail business establishment's gross sales."

General comments: Our labour council is very concerned that this issue be treated separately from the whole issue of cross-border shopping. Sunday shopping and working has nothing to do with cross-border shopping in our view. In Ontario as elsewhere, Canadians are going to the United States in record numbers. This is happening in provinces which have had Sunday shopping and working for several years; for example, British Columbia.

The reasons for the rapid growth in cross-border shopping are many and varied. However, they are mostly related to federal Tory economic policies, including the high level of the Canadian dollar, high taxes, the introduction of the GST, the promise of cheaper goods and easier border transit put forward by the federal government to boost the Canada-US free trade agreement, and reduced confidence in Canada because of Tory policies.

As well, Canada has been hit by a serious recession with many thousands of workers being thrown out of work because of the free trade agreement. This has obviously affected people's ability to afford the basic necessities of life. Wide-open Sunday shopping and working will therefore not solve the problem of cross-border shopping.

Second, there should not be a confusion between the establishment of a common pause day and the development of tourism. With the acceptance of the above recommendations, we believe that the recreational, entertainment and cultural needs of tourists can be met quite well without allowing wide-open Sunday shopping and working.

In conclusion, the most important principle for us is the principle of a common pause day for workers and their families. The UFCW estimates that just by counting their members and families, two million people in Ontario would be affected by Sunday shopping and working. If we add to this the many thousands of workers in other establishments who are members of our affiliated unions, we represent a major part of the population in this province.

As an important community within this region and within this province, we would ask that labour's views on this issue be listened to very carefully.

The amendments proposed by the Ontario government are a step in the right direction. However, in our view they would fail to ensure that the goal of a common pause day is met, and in fact would jeopardize its realization for workers and their families and the general population of this province.

We are asking that you accept the recommendations put forward in this brief, for we believe that by doing so you would be enhancing the lives of workers and their families and at the same time enshrining the important principle and practice of a common pause day in Ontario.

Mr Daigeler: We had several witnesses come before us and say quite strongly, "I have the right to work on Sunday and I should be able to work on Sunday." I must say I personally was a little surprised at that, but that seems to be the direction in which we are moving in North American society, knowing that in Europe, perhaps before the recession, the debate was mostly on shortening the workweek. There has been tremendous debate to have a 35-hour workweek rather than the 40-hour or more workweek. Are you aware from your labour context, whether there is any effort to reduce the workweek? Is that one of your goals, the hours to be worked by the workers?

Ms Wall: As you know, we are a central body, and for many of our unions, of course, this is something they have been trying to negotiate for many years. But that is not at the expense of current jobs and not at the expense of a living wage. Recently employers have given in to unions that have negotiated fewer hours on the basis of extending the work in different plants and so on, extending the shifts and those kinds of ideas. So yes, it is still a principle of having more time for leisure and a lesser-burdened workweek.

Mr Daigeler: But you would not say it is a key labour demand at the present time.

Ms Wall: It is one of the labour demands but we do not want, instead, thousands of part-time jobs where people do not have the opportunity to make a decent living. That is unfortunately what has happened. In the recession of 1981-82, many thousands of workers lost their jobs. By 1988-89, we had this so-called full employment in Toronto, 3.8%

unemployment, that disguised the record numbers of part-time, low-wage work in Toronto.

That is not talking about people who work in unionized establishments, including food establishments and retail establishments. That means those who are in the McDonald's type of establishment or the so-called high-tech, which is low-wage office sector. Those are the jobs that are not well paid, that are part-time and are exploitative for many women in this region.

Yes, it is a general principle, but we want to make sure first of all that there is full employment, that there is quality employment and that people are working in decent conditions. If they are not forced to work on Sundays and even if you say we can have, as has been suggested, legislation around right to refuse work on Sundays, that is still a difficulty because there are all kinds of intimidation tactics employers use at this point to coerce people into working. That is not a complete answer either. The answer is to enshrine the common pause day and make sure everybody has that right.

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Mr Sorbara: I have a brief series of questions. You say you have 180,000 members. Of those 180,000 members, how many would be involved in the retail sector, approximately?

Ms Wall: I do not have the figures exactly in this region.

Mr Sorbara: Ballpark?

Ms Wall: Ballpark figure? Let's see. The UFCW has estimated it for that region. Members and families of the UFCW are estimated, so I would say that almost half of that would be in Toronto. That is almost one million people of members and their families who are working in that sector in this region.

Mr Sorbara: Actually what I wanted to know was what percentage of your 180,000 members of your 400 locals are retail workers, but if you do not have it that is okay. It would be safe to say, however, that of those 180,000 members of the Metro labour council, the majority of them would be from industrial unions, and primarily the CAW is the largest union in Metro. Is that not right?

Ms Wall: No, I believe that the United Steelworkers, the Canadian Auto Workers and UFCW and the retail unions would be the major ones. That is discounting the public sector. Approximately half of our membership would be from the public sector, so that is about 100,000 and then 80,000 split among those unions, so you are looking at a chunk of workers.

Mr Sorbara: I take it that General Motors and its colleague motor companies are the largest employers in the Metro area and have the largest unionized workforce.

Ms Wall: Actually the Ontario government is the largest employer.

Mr O'Connor: The UFCW has 75%. That is from her brief.

Mr Sorbara: I am sorry, but that is around the province. We were just talking about Metro right now. I notice that in your brief, just before the heading on page 2, "Mu-

nicipal Option," you are arguing that we should pass a law providing—I am reading from the second point—that Sundays, the common pause day, be a day "on which most persons do not have to work." Is it the principle of the Metro labour council that industrial establishments like General Motors and Ford and other manufacturers and other employers in unionized workplaces ought not, for the most part, to be open on Sundays?

Ms Wall: As a labour council we support—

Mr Sorbara: We just need a yes or no as to whether or not it is a policy.

Ms Wall: It is not a yes or no question; I am sorry.

Mr Fletcher: Let her explain it in the way she wants.

Mr Sorbara: I am just wondering if you have a policy position on that, if the Metro labour council has passed a policy position on that.

Ms Wall: Our policy is here, as written. Our policy is to support the common pause day from Sunday shopping and working. Obviously there are exceptions to the rule. When unions negotiate their own conditions with the employers because of all sorts of other reasons, that is up to them. But in fact you are wrong in terms of the numbers of CAW members and auto workers. When the GM Scarborough plant is closed down, there will be virtually no GM workers in this region. The biggest region is Oshawa. That is not part of our municipality.

Mr B. Murdoch: One of the questions is, you talked about the common pause day and it being on Sunday. What about the other groups that maybe do not want Sunday for the common pause day? Have you considered that? How would you handle that?

Ms Wall: There are other groups, and as somebody else mentioned before, there are other individuals. Naturally, if the general ideology or myth that is being passed around is, "You should have Sunday shopping. You should have cross-border shopping. Open up this province so that you, as an ordinary citizen, have the right to consume every day of the week," if that is the mythology that is being put forward and the flavour that is pushed on us by the federal government and this whole country, then naturally there are going to be people who are swayed by that argument.

But as for a few individual exceptions or groups that think they should have the right to be open, that is an exception to the rule. I believe that for the good of working people and their families and the general citizens in Ontario, this is the best model. There may be people who are interested in making money in the retail sector. There may be those like the drugstores that want to really be supermarkets and not just cater to pharmaceutical and medication needs.

Mr B. Murdoch: There is a whole issue around just the common pause day, what day it should be. Are we going to say it is Sunday, or are we going to say it is Friday or Saturday?

Ms Wall: For the majority of the population Sunday is still considered a common pause day. Of course there are exceptions and we appreciate the reasons for people wanting it to be on other days. People have their religious or other

reasons, but those are very few exceptions. I think we are talking about something which is good for the majority of citizens. I am talking about working people, the poor, the oppressed, families at a different level. I am not talking about those who want to make money in this country and open their businesses to anyone and try to make money.

Mr B. Murdoch: I do not think that is what it is about.

Mr Carr: The question I have relates to your membership, and I think Mr Sorbara touched on it. You have auto workers and steelworkers. I think it would be safe to say the vast majority of them are still subject to working on Sundays. What do you say to some of your members who may have to work when they say, "Here you are fighting for the retail workers and yet I am a Canadian auto worker and I have to work." What do you say to those people?

Ms Wall: I believe the whole labour movement is standing behind the United Food and Commercial Workers on this position. I talked before about certain individual local unions or master agreements with companies. That is up to the union themselves to choose that.

We had a discussion last Thursday night at our executive board on this issue before we put forward this statement. The Canadian Auto Workers are represented there, and the Steelworkers are represented there, two of each of those unions, a majority on our board, and they were all in favour of passing this statement.

In principle the trade union movement as a whole is supporting the UFCW and our position on this. What unions negotiate locally is a completely different matter and for various different reasons. We are not making judgement upon them. This is an acceptance of a position in principle and we want to stick to this and see that it is enforced properly.

Mr Carr: The next question is with regard to page 3 where you want to change the square footage. On the one hand you say you would like to have a common pause day, but then you say to get around it we are going to basically discriminate. I suspect you are probably not a lawyer, but that is going to leave it up to a lot of challenges and will discriminate against different-sized businesses for no other reason than the square footage of their facilities. I was wondering if you could explain the rationale behind that, why you would discriminate against different companies or groups?

Ms Wall: At the moment there are about 60% of drugstores that fit into this 2,400 square feet and those are the ones that are primarily drugstores. I do not believe it is discrimination. I believe it is just trying to get some consistency in the system.

The original reason for allowing drugstores to open on Sundays was to ensure the population had access to medication and prescriptions and so on. I have children and I often need to get prescriptions from the hospital or drugstores on a Sunday and in the evenings. That opens it up and allows that kind of thing for people, but there has to be a limit. I think over the years it has stretched and now something like 90% of the drugstores in the province are over 4,000 square feet, which is a big area. If you walk

into those big drugstores, they are not drugstores for the reasons they were set up for, for opening on Sundays. They are supermarkets, and 80% of their goods are supermarket kind of goods. You will find in some small areas there will be the medications and the prescription drugs, and sometimes you will not even find the pharmacists there, "Oh, he'll be in at 2 o'clock," or "He'll be in at 3 o'clock," or something like that. That is criminal, to us. The original reason for setting it up is for the population to have access to the medication and we want to keep to that, and if there have to be some limits somewhere, you have to set those limits. Otherwise, it will stretch and stretch and then you will have every supermarket open on Sundays and, "Oh, by the way, we have this little section that sells drugs and medication."

Mr Fletcher: Thank you, Brenda, for the presentation. Just a couple of points. Who do you think this piece of legislation is going to benefit the most?

Ms Wall: I think it is going to benefit working people and their families and the majority of the population in this province. That, to me, is the most important part of the population. If we open it up to the system we have south of the border, there are no limits to the exploitation of working people and the breakup of the kind of family life and social life of the community. I think in this way we can preserve that kind of society.

We have prided ourselves in Canada in being different. We have prided ourselves in supporting working people and their families in the past, and social programs, and I think this is a very important kind of social program, in a sense, as well. It stops people from being exploited seven days a week, and no matter how you get around it, it is happening, people are being forced to work.

Mr Fletcher: That leads into my next question. There is a need to protect workers? You do see a definite need for that?

Ms Wall: There is definitely a need to protect workers, and it is not going to be just through the right to refuse. That has not worked well enough in the health and safety field. You have to have the legislation which creates an effective common pause day so that there is no Sunday shopping and working and there are very few exceptions where people have to have access to things that are necessities.

It is stretching out the dollars. It is even encouraging people to spend more than they have. I do not think it is a healthy kind of attitude, and just in terms of the economy of this country, as I said before, it has nothing to do with the cross-border shopping; it has everything to do with protecting the rights of working people and their families.

Mr Fletcher: Good. I was glad to hear that the UFCW and the CAW could agree on something. It is nice to hear.

Ms Wall: Very much so.

Mr Mills: My colleague Mr Fletcher asked many of the questions that I was about to ask. I thank you for your presentation, and in summary, I would just like to thank you for the wonderful reasons that you have for the cross-border shopping in your general comments. I think they are very succinct and very apropos. Wonderful. Thank you very much.

The Acting Chair (Mr Cooper): Thank you very much for your presentation, Ms Wall.

Mr Sorbara: Is there any more time?

The Acting Chair: No, there is not.

CANADIAN LORD'S DAY ASSOCIATION

The Acting Chair: The next group will be the Canadian Lord's Day Association. What we have been doing is that you are allowed half an hour, and you can divide that time up any way you wish. You can either make a full half-hour presentation or you can make a brief presentation, then divide the rest of the time up among the caucuses for questions and comments. Would you please identify yourself and then proceed.

Mr Fraser: My name is Donald Fraser and I am here on behalf of the Toronto auxiliary of the Canadian Lord's Day Association. The Canadian Lord's Day Association is a Canada-wide association of people who desire to uphold the sanctity of the Lord's Day, also called the Christian Sabbath or Sunday. Maybe we are few, as Mr Sorbara mentioned, but we are still there. We have members in many areas of the province of Ontario and I am here to speak on behalf of our members in the Toronto area.

The issue: Many will say we are living in the 1990s, of which Sunday shopping is a part. Yes, we are living in the 1990s, but no, Sunday shopping does not have to be a part. There are many who value the day of rest when commerce stops and people can have a quiet day, the purpose of this day being to worship God and to rest our bodies.

Our interest in making a presentation to this committee is twofold: (1) to encourage the present government to stand strong in the maintenance of a common pause day, as was suggested by the lady preceding myself; and (2) to express our opinion regarding the proposed legislation, Bill 115.

We would encourage this government not to be intimidated by big business. Over the past two days, I have read media reports about the presentations large retailers have made to this committee. The overwhelming theme of their presentations has been the great financial opportunities they have missed since stores have been closed on Sundays.

I do not believe these losses are solely related to this issue. I believe the timing of the introduction of the GST and the period of open Sunday shopping from June 1990 to March 1991 are closely related. Thus, I believe that the numbers being presented are not a true indication of market reaction to Sunday shopping.

Another argument which is often proposed regards the issue of cross-border shopping. Yes, there are stores open in New York state on Sunday, but if you ask most cross-border shoppers the main reason for their journey, it is because of price.

We as an organization do not believe that bottom-line profitability is a reason for wide-open Sunday shopping. I would quote from the Bible where Jesus in the gospel of Mark said, "What shall it profit a man, if he shall gain the whole world, and lose his soul? Or what shall a man give in exchange for his soul?"

We appreciate this government's consideration of the wellbeing of retail employees who would otherwise have

to work on Sunday. We encourage you to proceed with this legislation protecting the Lord's Day as a day of rest.

We applaud the proposed changes to the Employment Standards Act. The removal of the reference to "reasonableness" is a very positive step and will ensure the right of retail employees to refuse work because of religious convictions.

Our major concern relates to the giving of the power to municipalities to determine compliance with the tourism criteria. This leaves the door open for local governments to declare large sectors of their jurisdictions as tourist areas and thereby permit another form of wide-open Sunday shopping.

Our preference is to see all retail establishments closed on Sunday, even in such areas as Toronto's Chinatown and Harbourfront. We believe the law should apply fairly to all. This includes such specialty retailers as the various retailing clubs which are operating in this province.

We would recommend that the provincial government would decide which areas are designated as tourist areas. Presentations by retailers would be made through local governments, which would in turn apply to a provincial board for approval. Through this method, the provincial government would be able to ensure that this legislation is applied in its intended manner.

In conclusion, our organization supports the principle of this legislation. Our primary concern relates to the general nature of the tourism criteria. We suggest that the provincial government retain the power to designate exemptions to the Retail Business Holidays Act.

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Mr Poirier: In the beginning of your statement you said that we listened to big business and whatever, and yes, we saw the opinions of big business, but in the last few days we have also heard a lot of the opinions of very small, family-oriented business, where people wanted to work. As the owners of the business, they were describing to us in great detail how a lot of people wanted to work as employees in those small family businesses. We also saw surveys and people who said they wanted to shop in fair numbers on a Sunday.

You seem to be a very religious man, since you are quoting from the Bible. I presume that is your personal life. I respect that very much. If you want to spend all day Sunday to worship the Lord and do whatever you want that your religion calls for, I have no qualms or quarrels with that, but why would you want to impose that common day on other people who may not share that opinion with you, people of other religions, students who want to work, consumers who want to shop? I do not think people should work seven days a week, but why Sunday? What happened to plural Ontario? What happened to the other opinions? Could you respond to that?

Mr Fraser: Yes. Part of that, as you have mentioned, is my strong Christian beliefs. Being a strong Christian, I would like to see that everybody would believe the same way as I do, and I would like to see that it would not have to be legislated to have a common pause day; rather, that it would be a situation where everybody would of their own

accord take one more day off, namely, Sunday, the Lord's Day, as we call it.

Mr Poirier: But what if their Lord's Day is not Sunday? That is your Lord. How about their Lord?

Mr Fraser: Because of our beliefs, we believe that it is in the best interests of society in general to have the day that Christ rose from the dead, that he appointed as the day of worship. We believe it is best for society in general to have that day as the common pause day.

Mr Poirier: Is that what you tell your Jewish and your Muslim neighbours and friends?

Mr Fraser: That is correct, yes. That is part of living a Christian witness, I believe, and expressing our opinions on these issues to our non-Christian neighbours or Christian neighbours who worship in a different manner than ourselves.

Mr Poirier: I presume you know they would not agree with you.

Mr Fraser: Yes, I do understand that.

Mr Poirier: How about those Christians who do worship the Lord on Sunday but still work on Sunday? What do you think of those Christians?

Mr Fraser: That is actually a great problem that we see within the Christian church. Part of the objectives of our organization is not only to make presentations to government, but also to make presentations to other Christian groups who we believe are very lax in their keeping of what we believe is the way Christ meant the day to be kept.

Mr Poirier: So I presume that according to your Christian belief, to shop or to work on a Sunday and not respect the Lord's Day would be a sin.

Mr Fraser: That is correct.

Mr Sorbara: We have a few things established, that the Toronto and District Labour Council supports the government's legislation and the Canadian Lord's Day Association supports the government's legislation. That is an interesting coalition.

I just want to say to Mr Fraser, referring to the sentence in his submission, "Our preference is to see all retail establishments closed on Sunday," I am not sure if he will believe this, but I want to tell him that my preference as well is to see all retail establishments closed on Sunday, or some other day that we could agree on, if we could agree on that. That would be in some respects my first choice. If society as a whole could agree with that, it would be wonderful. I have a particular envy for the state of Israel, where there is common and uniform agreement about what day shall be a common pause day.

But is there not now some acknowledgement within your organization that the very makeup of the province of Ontario, the fact that we are a multireligious society and also a secular society, the fact that some are required to observe another day and some do not care to observe any day, is there not room in your philosophy to understand that, given the dynamic of this wonderfully diverse society called Ontario, we do not have the right any more to force upon an individual the requirement to stop doing what he is doing, based on the preferences of an important minority?

Mr Fraser: No. In response to your question, we might be considered a very traditional organization in that sense, but no, we do not believe that because we are in a pluralistic society everybody should be accommodated. We believe in God's laws and we believe that God's laws apply to everybody whether they believe in them or not. That is the standpoint we come from.

Mr Sorbara: Then you would take the position, and I think the district labour council was almost about to take the position—or I was inviting it to take the position—that General Motors should stop manufacturing on Sunday as well. They want most workers not to work. You would prefer the closure of a General Motors, you would prefer the closure of the service sector, you would want to prohibit the use of banking machines, things like that, on Sunday as well.

Mr Fraser: Our organization would agree with you on that, except for certain works of necessity in which we believe, such as hospitals—

Mr Sorbara: Keeping the lights on.

Mr Fraser: —and, as they were saying, a certain number of drugstores for the prescription of absolute necessities. Yes, that is what our organization believes.

Mr Sorbara: You support the government's legislation, save and except that you would like the tourist criteria to be even stricter?

Mr Fraser: I would like to see the government take control of that situation. I do not think the municipal option is a correct situation because it just leaves too many varied people interpreting the legislation and it leads to a very wide range of decisions.

Mr Sorbara: Why in Ontario should we have facilities that cater to tourists on Sunday and not to our own citizens? You support the tourist exemption.

Mr Fraser: Actually, the true position of our association with regard to many tourist attractions is that many of them should be closed on Sunday. The majority of the members of our association do not attend tourist attractions, such as Canada's Wonderland, on Sunday.

Mr Sorbara: But should there be tourist shopping? Should a boutique in Yorkville be allowed to open under a tourist exemption, under legislation that you would support?

Mr Fraser: No.

Mr Sorbara: So you would not have any tourist exemptions.

Mr Fraser: No, that is correct.

Mr B. Murdoch: Just to carry on with this, surely as a true Christian you must have regard for the beliefs of other religions.

Mr Fraser: I have regard for the beliefs of other religions. I would like that they would come to the beliefs of Christianity.

Mr B. Murdoch: But in this way you would almost force them with a law. Is this what our country would come to with a law that said if you are not a Christian, then you must take Sunday as a holiday?

Mr Fraser: No. There are certain aspects of society that, in order to have law and order prevail, certain laws must be legislated.

Mr B. Murdoch: Yes, certain laws with law and order, but this is nothing to do with order. This would be their God. You speak of your God who wanted Sunday as our day. I come from a Christian area. There are very few other religions in my area, but I still think they would want to respect the laws of another God that Muslims believe in and people like that. Sunday is not their day. This is a law we are talking about, and they would be breaking the law then.

Mr Fraser: Yes, and they may break the law without its being legislated, by their choice, if they do not have a retail establishment, by doing some other kind of work.

Mr B. Murdoch: But in their religion it is not breaking the law, so it gets pretty dicey here when we start to pit one religion against another because of a common pause day.

Mr Fraser: We believe that for uniformity within a country there are certain prevailing religions—I should not say “prevailing religions.” There should be certain laws that should prevail. We believe that this country is based on Judaeo-Christian laws. Being based on that, that is how we have had Sunday as the day of rest until today.

Mr B. Murdoch: So basically, Canada or Ontario has not become a multicultural then. We are still basically a Christian country.

Mr Fraser: We are established on Christian principles.

Mr B. Murdoch: I know we were established that way, but we have, over the past 100 years, become a multicultural.

Mr Fraser: I realize that, but we believe that because we are multicultural does not mean we should give up our Christian laws just because other religions have come into our country.

1520

Mr B. Murdoch: I do not think anybody wants us to give it up. Sunday would be there, but there also may be Saturday or Friday, as we have heard today from some other people. But I will not belabour that.

The other thing that concerns me is about tourism. I know North York was mentioned, but let's take my area of Grey county where almost our main industry now is tourism. One of its biggest days is Sundays. Are you saying that our little shops, our boutiques, our antique shops should all be closed on Sunday? That is probably half their business. Are you saying they should all be closed?

Mr Fraser: We believe that yes, those shops should be closed.

Mr B. Murdoch: Okay. Would you be prepared then to pay the bill to support the people who will not have jobs? There is going to be massive unemployment in the tourist areas, which would be in Grey-Bruce and Muskoka, a lot of places like that. These people will not have jobs. They will not be able to survive. Would your group be willing to put money towards—

Mr Fraser: I disagree with you on that point, because people do not come only for a weekend. There is a lot of

traffic on a weekend, but there is a lot of tourism. Today, there are many people purchasing in boutiques up in Muskoka and Grey-Bruce. For years and years those people were not unemployed. We do not believe it has changed just because it has changed very recently.

Mr B. Murdoch: It did not change very recently. It has been changing over the past number of years. As I said, half their business will come on Sundays. They will come in here and tell you that, and they are not making a fortune, so half their business is going to be gone. They are not going to be able to make a living. You do not have the answer for them. Our answer is that they be allowed to be open on Sunday. If your organization has an idea that they should be closed, then it has also got to have an idea of how it is going to support these people.

Mr Fraser: If they are closed, I am sure that people are interested in what those boutiques have to offer and will come on another day and purchase things, because many of these boutiques were not open in the past on Sundays.

Mr B. Murdoch: I hope we do not have to find that out, because it would be disastrous if they were closed.

Mr Fraser: And they ran businesses successfully in the past.

Mr B. Murdoch: That is a long time ago. It has changed. Obviously, you have not been into the areas of late. Anyway, that is fine.

Mr Carr: My question is along the same lines. Here you have the retail workers. How would you take us back in those other industries; for example, hotels and airlines and so on? What would be your recommendations for those areas? Presumably, they should not be working. How does your organization see that going? How would you make it so that those groups now do not work on Sunday too? Would you leave them the same or are you attempting to do something for the vast majority of the people who are now working on Sundays who would not be protected?

Mr Fraser: We believe that not everything can be legislated. That is obvious. You cannot legislate everything to be closed. With regard to hotels, people, if they come on a Friday and stay until a Tuesday, obviously there is going to be—and we consider much of that work as work of necessity for the maintenance of people's wellbeing. With regard to travel, in the various businesses I have worked in as a sales representative, I have never travelled on a Sunday and most of the members of our association make it a point to avoid travel on Sunday. It would be an ideal situation that we would desire to have in this country and around the world, to not have travel on Sunday, and many recreations.

Mr Carr: Baseball games, movies and things like that.

Mr Fraser: Correct.

Mr Fletcher: Thank you for your presentation. Let me just repeat something I said to another presenter. This legislation is not here because of anyone's religious beliefs or anything else. It is here to protect workers and also to do something about tourism. It has nothing to do with religion or culture. Since I did touch on the tourist exemption,

exactly what is the problem with the tourist exemption that you see?

Mr Fraser: Our main problem is that we realize that the ideals we have will never—I should not say “will never”—will not be legislated by any legislation that this government may pass. We believe there will probably be a tourist designation as there stands in the law at present and we would like to see the government maintain control of that designation.

Mr Fletcher: The provincial government?

Mr Fraser: That is correct.

Mr O'Connor: I want to thank you for coming here today. I know it is very awkward and sometimes a little bit frustrating, especially when committee members, though we are not necessarily experts at everything ourselves, sometimes ask questions in an area that perhaps you are not an expert in anyway. I think perhaps one area that you do like to focus on is the needs of people. In that area, then, do you think there is the need for some protection of workers, so that they have the right to refuse work on Sundays?

Mr Fraser: I believe that very much and I talk from personal experience. A gentleman in our church who is a manager of a jewellery store was not forced to work on Sunday, but he felt he would lose his job if he refused to work on Sunday. This law does provide some sort of protection for him. We applaud that.

Mr O'Connor: One of the other members mentioned earlier about the auto workers working on Sunday. I found that really curious, because having come from the auto manufacturing industry and having worked there for a number of years—11, as a matter of fact—I probably could count the times I have been requested to work on a Sunday on one hand.

Mr Carr: The St Thomas plant goes seven days a week.

Mr O'Connor: So not all auto workers can be painted with the same brush. In fact, that was in the largest auto manufacturing plant in all of North America. In St Thomas it could be a little bit different. We cannot say necessarily all. I am glad you see that protection is necessary.

One area that you talked about was the leadership role, provincial and municipal. Do you feel the province should definitely take a leadership role in this and make sure that legislation goes forward making sure that there is some protection for the worker?

Mr Fraser: Yes. We believe that the past Liberal government was negligent in the way it formed the legislation. It was not a leadership role. Instead, it was passing the buck to the municipalities. The problem is that you get so many, many different people taking control that you get so many different controls. It just is not uniform. We would like to see some uniformity here.

Mr O'Connor: Again, I thank you for coming and I hope we did not put you on the spot too much by asking you questions in perhaps areas you are not an expert in.

Mr Mills: Thank you, sir, for coming and your presentation. I would just like to remind you that we do have

a Sabbatarian exemption in the current legislation. I am sure that you are aware of that, are you not?

Mr Fraser: Sabbatarian exemption?

Mr Mills: Yes, there is that. I would like to also say I am very pleased, as a member of the government that is presenting this legislation, that your organization supports it in principle, and for that I thank you, sir.

Mr White: I have one small question. My understanding is that the history of the act—as you know, it was the Lord's Day Act, and that has been the tradition for countless centuries, but in the last 20 or 30 years there has been a shift from the preservation of Sunday as the Lord's Day to the preservation of Sunday for a common pause day for families, for recreation. That is why the emphasis, of course, on tourism.

Other groups that have presented have been with us for four generations as well, like the People for Sunday Association of Canada. They started off with a religious bent, but now they have come to a strong support for a common pause day. You, on the other hand, are maintaining that strong religious bent. You do not have any kith and kin with the idea about the common pause day?

Mr Fraser: That is correct. We believe that we are the only association in Canada that stands for the Lord's Day, Sunday, on a purely religious basis from the Christian principle. We are associated with the Lord's Day Observance Society in the United Kingdom.

The Acting Chair: Mr Fraser, I would like to thank you on behalf of the committee for your presentation.

1530

ENDS CLOTHING STORE

The Acting Chair: Our next presenter will be from Ends Clothing Store. You will be allowed half an hour for your presentation. You can either make a half-hour presentation or split it up, because people from the committee have questions and comments. Could you please introduce yourself and then proceed.

Mr Weisfeld: My name is Harold Weisfeld. I have a couple of stores in the Beach called Ends. I have been in business since September 7 1982. You will have to excuse me because I am a bit shaky. I probably have more fines than Paul Magder. It is a very, very tough time for me. I have about \$300,000, \$400,000 in fines. I have been open every Sunday for nine years and I will fight it right to the end. I have here a list of 25 different situations which are not exactly the regular situations that you are hearing from other people, and I am going to start from the beginning.

First of all, I have a Travel Ontario book that was written by the Minister of Tourism and Recreation for Ontario, Queen's Park, written by the NDP. If you will refer to page 52 there is a picture of the Beach. I only have two or three copies. I will just hand them out. If I go from one thing to another, it is just the way I have written it down.

First of all, I employ 17 people. I have four stores—two in the Beach, one at College and Bathurst and one at Bayview and Eglinton. I do not open Bayview and Eglinton or College Street because it is not necessary. I am in the discount business. I was a sculptor most of my life

and at the age of 38 got into the clothing business because I could not make a living as a sculptor. The business has been very good to me. The first five years were very difficult. The last three or four years have been fabulous, except for the Sunday-opening situation.

Since I am in the discount business, between myself and probably five other gentlemen in Canada, we are probably sourcing more merchandise for the majors, for Eaton's, for Simpsons, because we do wholesale. I never really was in wholesale, but when Sunday-opening came up I started to get very frightened and said, "I have to find another avenue."

I was with the president of a huge company the other day, in Buffalo, and he was trying to make a decision whether to open up in Ontario or Buffalo. As for trying to compete with the States, we really do not have a chance because the gentleman who was with him was a member of Parliament—or I do not know what you actually call them—in the state of New York and he said to him: "Wherever you want to open up in Buffalo, we'll make it a duty-free zone. Wherever you want. You want to open up in Tonawanda, Lackawana, wherever you want." That basically means that if he brings \$25 million worth of merchandise into Ontario, within one year, if it is in bond, if he has a 20% duty, he has to pay 20% on that \$25 million. What the gentleman in the States was offering him is that he can bring in his \$25-million worth of merchandise and as he picks from it over a 25-year period that is when he pays his duty. So if he sells \$100,000 worth he pays the duty on \$100,000 worth.

As for us trying to compete by saying, "Well, let's get eight percent from the people bringing it over the border," the American government will give the storekeepers the kickback. They are more business oriented.

Why the government has picked one sector of business, retail, as the devil, I have no idea. They have not picked any other business sector but retail. There could be a man at College and Bathurst sitting on the third floor in a computer company making a million dollars a year, but because he is not exposed to the retail, everyday people, you do not know what he does; he might be open seven days a week. I do not think it is fair. There is discrimination in a policeman coming into my store and giving me a ticket, and I am saying, "Could you please explain to me why the woman three doors away is not getting a ticket yet we are buying at the same place?" "Well, she is only carrying three items of the same goods." So what does that mean? Maybe she has 60 others in the back. What does it mean that she is carrying only three?

The police have such confusion over what a craft is and what a craft is not, but it is our livelihood. They are singling us out in such a way that if a person tells them a good story, he does not get a ticket. If the right policeman is on duty on the right day, you do not get a ticket—and this is my livelihood. People say, "What if people do not want to work on Sundays?" Well, what about the person who works at Shoppers Drug Mart or a craft shop? What is different between him working on a Sunday and the guy who is working for me on a Sunday? He has a different

way of thinking so he will work on a Sunday and will not be forced into it?

I have lists of at least 100 kids who go to the University of Western Ontario, University of Toronto, your kids, nephews, nieces, begging to work. If everyone is paying \$6 an hour, I am paying \$10 an hour. Comes the end of the weekend and business is good, I am giving them \$200 bonuses. I have a very successful business and I am afraid of what is going to happen, so I am fighting as I know best. Unfortunately the rest of the Beaches will not stay open because they are frightened, so I have become a martyr and I hate it. I despise it.

I had to ride my bicycle three hours this morning just to calm down for this meeting. It is a very gut-wrenching experience. Out of 300 businesses in the Beach, 82 have either gone out of business or switched locations because of high rent. I have proof of everything I am telling you. You must understand that the Beach is a group of people who could not make it in the corporate environment. They could not put on a suit. They found an alternative lifestyle. We have jazz festivals. We have a whole great thing going on there and all of a sudden we are starting to hate each other. This one tells on this one, and this one tells on this one and it is getting crazy. And unfortunately it is big money.

I do 40% to 50% of my business on a Sunday. I declared my corporation agnostic and I close Mondays, but my basic religion is that I am Jewish, and it makes me sick to my stomach that I have to go to this level to do it. I will play it right to the end, and not because of stubbornness but because I have to make a living. I have Vietnamese working for me, Chinese, I have every ethnic group working for me and they are constantly frightened when the police come. When I started in the Beaches I was paying \$800 a month. I have moved to a better location, bigger space and I am paying \$7,000 a month. I do not mind paying \$7,000 a month because I am making the money. I am in a volume business and I have to keep the game going.

If I close that seventh day, the whole puzzle falls apart. Ninety percent of the kids or people who work in the Beach in retail are from the Beach. You will not allow us a vote on it. Everyone thinks it is too much of a hotbed. I have spent so much time with politicians, from Paul Godfrey because he was my baseball coach as a kid, right down to Paul Christie, Tom Jakobek—no one wants to get involved. No one wants to start.

1540

As for employees wanting to work Sunday, as I say, I have lists and lists. They are begging to work Sundays. If they do not want to work Sunday, there is no problem. Now let's just talk about the small businessman, the small grocer who becomes intimidated and has convinced the government that he cannot make a living if the big guy is open. My girlfriend's father was vice-president at Labatt's and one of the things he told me is that the big corporation makes so many mistakes that is the only way the small entrepreneur can survive.

Why do I as an individual want Eaton's on one side of me and the Bay on the other side of me? Because by the time they make a decision you can make 20 other moves. If you go to Bloor and Bay you will start seeing winter

goods in the stores, and I am sure if you have never been in the garment business you have always wondered why they are selling winter in summer and summer in winter. Because they cannot move fast enough and thank God they cannot. That is how small businesses, if they move quickly and they are on the ball, can make it work. It does not matter how smart the corporation is, they cannot move as fast as the small guy. I am sure the man from Eaton's started off as a pedlar and then opened a retail store and has evolved to a big position.

You are not allowing us to grow. I, myself, am 47 years old. I really am happy with what I have. I am not looking to build an empire of 20 stores. If I had my choice, I would have just one store. Things happen, things evolve: you start with one store, you end up with two. I have reached my peak and I just want to keep it where it is. As I say, I employ 17 employees and we are like a happy family there. But the big problem is their fear and my fear. Every Saturday at two or three in the morning, like clockwork, I throw up, the fear starts and it is becoming gut-wrenching with the whole community.

There is a woman who has a place in the Beach—her husband was a lawyer, fell in front of a subway three years ago, got killed. Her only support is her little store. You have to close Sunday, well, she does \$2,000 on a Sunday and \$300 on a Monday. A lot of the businesses that have gone out of business in the Beach were established ones that had been there 60 and 70 years. It is now reaching the point that it has now become a Subway Submarine, Mr Submarine, Mr Donut, it is getting that way. So this great place, near the lake, whether there were Sunday openings or not, would always have people. They had people for 20 years. I have been living there 18 to 20 years and they always had people. Now it is becoming chicken chalet, it is becoming what we did not want it to become.

As for the discount business, and as for people trying to figure out how to make their business work, the real key is to do what the customer tells you, not what you want. You have a house and you have it up for \$300,000 and it does not sell. It does not mean that the purchaser is a son of a gun. It means that is what the marketplace is telling you. When I have 40,000 people come into my store on a Sunday, they are telling me they want me to be open, I am not telling them.

I am sorry, just one more. If you were to close all the stores in the Beach, it would probably affect 1,500 people, directly and indirectly. Prices have got exorbitant there. It is wild as far as doing business.

One thing I just want to close with is to just give you a little idea about retail. If you have never been in small business, retail always appears to be the easiest game to get into, but it is really the hardest game to do. You go out, you pay your first month's rent, your last month's rent. You get an individual to give you merchandise, you convince him to give you 60 days and then you are in business. Then it starts.

The nonsense from a physical, from a robbery point of view is so gut-wrenching. Saturday, the jazz festival, a kid comes with a ketchup bottle and sprays 160 shirts; 14 years old, smiles at us. A man takes a dog into the store. I said,

"Please don't put the dog in the store." "Hey, no problem." It goes to the bathroom. It cost \$12,000. I had to tell everyone to get out of the store for three hours.

There is so much violence in retail that you cannot imagine. You see what is going on in the Beach now. Everything is being kept quiet. Some kid was nearly murdered. It is getting wild there and we are trying to keep it cool. We try not to keep it on the front page. We have to have a Sunday opening to keep our game going.

I cannot tell you what a great community we had six or seven years ago with storekeepers, and now everyone is hating everyone. Police are coming up to me and I am saying to them, "Tell me about the other storekeeper." He goes to the other storekeeper and says, "The only reason I am coming down here is because Harold told me that I had better come down and give you a ticket." The nonsense is getting wild. That is all. Shoot, if anyone has any questions.

Mr Sorbara: I just want to see if I understand correctly what you are saying is happening in the Beach in Toronto. Are you telling me that the pressure that retailers are under is resulting in stores closing and then the new tenants that are replacing those stores are the Mr Submarines and the McDonald's and the other chain stores which can of course open on Sunday?

Mr Weisfeld: Not only they can open Sunday—

Mr Sorbara: They are taking over your Sunday market.

Mr Weisfeld: They are not only taking over your Sunday market—that is business—but they are bringing in 300 people who have a lot of money from another country. They do not speak English and they want to put their son into a business and they take him to a Second Cup. He really cannot make it and the woman has put \$250,000 into a business. They brought her there on a Sunday when there were 50,000 people; all of a sudden she sells three cups of coffee on a Monday. The buyback is you can only sell it back to the franchiser. Then he has another 500 waiting there to put in another \$250,000, so they are the only ones who can afford to pay these big rents.

I am not complaining about the rents. What I am saying is, if you are not giving us seven days, the little comic book shop, the little this cannot exist, because we are paying rent for seven days and there is big action there. The jazz festival must have had 100,000 people there.

Mr Sorbara: You have said that you paid \$300,000 or \$400,000 in fines.

Mr Weisfeld: I have a \$17,000 fine that I got about a year and a half ago that I am appealing. I have approximately another 60 tickets. If they gave me full tilt at \$50,000 a ticket, it could be \$400,000, \$300,000, \$200,000.

Mr Sorbara: Why is it, do you think, your store is visited every Sunday by Her Majesty's loyal police force?

Mr Weisfeld: Why? Because I have more exposure. If you would see my store, I have things outside. There is more exposure to the street than other stores and my price is right. Today it is price and item; that is all it is. If you have the right price and the right item, it happens. If I buy an item for \$3, I am not putting it out for \$12. I am putting it out for \$3.50 and selling hundreds.

Mr Sorbara: Are the police looking at your prices or is some other storekeeper saying, "You've got to close that son of a gun down?"

Mr Weisfeld: Oh, well, the jealousies start to go mad. I am selling something for \$3 and another storekeeper came in two years ago and is selling it for \$12. Is he going to be angry?

1550

Mr Sorbara: You are not planning to close on Sundays, is that right?

Mr Weisfeld: I cannot. I have tried to figure out every way. It will not happen. I will have to close the other three stores, because I can only buy at that \$3 price because I am buying 5,000 at a time.

Mr Carr: I want to thank you for taking the time away from your business and coming here and presenting your story. Sometimes it is very difficult when it is so personal and you put so much into it, and for that we thank you.

One of the criteria put forward has been the tourism criteria. There are many who have looked at this law who say that a place like the Beach would surely qualify. My question to you is whether you have had a chance to look at the tourism criteria and what you plan to do as it goes before council to help ensure that the area does get the tourism exemption. Have you given any thought to that?

Mr Weisfeld: John Winter from John Winter and Associates, who is representing the Beach, is putting surveys and paraphernalia together. My feeling was, obviously, it was for the better, but now the games start. I mean, there might be three people in the whole Beach who do not want it and they might scream loudly. I am praying that this new tourism situation will help us out, but am I putting effort? I have spent \$50,000 on effort—with surveys, with finding out that 82 people went out of business—constantly, every day, not from the BIA but from my own personal funds.

Mr Carr: One of the problems is sort of a time lag from the time this committee gets done with it and it gets proclaimed and then goes to the municipal council. In your estimation, for a lot of these business, how close is it? Will they be able to survive until council is able to deal with it?

Ms Weisfeld: As Barry Agnew said yesterday, you have not seen anything yet. Okay, I am in the discount business. It is the first time I have ever seen in my life that there were no goods available, where you say: "Oh, my God, things are bad. There must be thousands of people sitting with manufactured items that they can't sell." There are no goods available, because I deal with the biggest broker in Canada, which is Steinberg, and a division of Steinberg. There is nothing to buy. There is no manufacturing going on.

When Eaton's would order 2,000 of an item, the man would bring in 2,500, so he had 500 extra. They order 2,000, he brings them 1,500 now. They are not relying on the Eaton's and Simpsons to do this any more because Eaton's and Simpsons are opening their own buying offices there and are cutting it so to the corner that there is no room for that distributor.

So what is happening now is, for example, if anyone has ever shopped in my store, I used to get a lot of Arrow shirts on clearance. I might sell a \$65 shirt for \$22 and just hundreds of people came. Now it does not exist any more, because they are opening their own retail outlets. That is what is happening. So you have the manufacturers going exactly the way they did in the United States. They are going direct to the public. They are saying, "I don't care if I get the order."

Mr Carr: One question regarding the employees: One of the concerns that has come up is with regard to individuals who do not want to work for religious reasons or want to be with the family and so on. I think you mentioned most of them are students. You have a list that is long, these people who do want to work. So in your opinion, there would never be the need to force any of the people who may work on another day.

Mr Weisfeld: If a person does not want to work, he has a reason not to. First of all, this is like a family. Although there are 17 of us, it is like a group of people who want to work. If they do not, there is never once—because I would not want it done to me. I am not looking to have a big business. It is big enough as it is. I am not looking to tell a person, "If you don't work Sundays, you don't get any work for the rest of the week." If he cannot come in, he cannot come in, and you can take every employee and ask that.

Mr Carr: Thank you and good luck.

Mr B. Murdoch: How many square feet would your store be?

Mr Weisfeld: I have one 375 square feet and one 5,000.

Mr B. Murdoch: So the one 5,000 might not fit the criteria that some labour—

Mr Weisfeld: I will chop it in half; I will make it 2,000. I will do what I have to do. I will shut a door.

Mr B. Murdoch: Well, labour has some problem with the bigger stores. They think exploitation of some of the labour people, and that is probably a good concern that they should have in the bigger areas.

Mr Weisfeld: Suppose you had a 5,000-square-foot craft shop. Would that apply?

Mr B. Murdoch: I am not sure. Well, right now we are at 7,500 feet, so we are all right.

Mr Weisfeld: You know what I am saying? In other words, supposing it was in the criteria but it was 7,500 or 10,000.

Mr Sorbara: If you sell drugs, you can be 7,500 square feet.

Mr Weisfeld: Right.

Mr Sorbara: Do you sell drugs?

Mr Weisfeld: No.

Mr B. Murdoch: These are legal drugs. He already has enough fines; he does not need more. I just want to know the size and find out what we are dealing with, because there are two problems here.

The Chair: Do you have the square metres down?

Mr B. Murdoch: Yes. We will go on. Let somebody else have a question.

Mr Mills: On behalf of the caucus of the government, I would like to thank you for attending here today. Your comments have been very interesting. Maybe I should take up riding a bicycle. You said it relieves your frustration and you had to ride for three hours before you came here. It is unfortunate you thought your appearance here was so upsetting.

Mr Weisfeld: It is frightening.

Mr Mills: It is very easygoing and I hope you have enjoyed yourself here.

Mr Weisfeld: We try our best. When I sat before the court and they gave me a \$17,000 fine, I sat there for 21

charges, and three people sitting in the docket chained to each other—and one had just raped a 93-year-old woman—are sitting there laughing at me.

Mr Mills: We are not chaining people here yet. Thank you very much.

The Chair: Any further questions? Thank you very much, Mr Weisfeld.

Mr Weisfeld: Thank you.

The Chair: We are adjourned until 8:50 in Collingwood tomorrow.

The committee adjourned at 1556.

ERRATUM

| No. | Page | Column | Line | Should read: |
|------|-------|--------|------|--|
| J-33 | J-714 | 2 | 5 | shop are closed, and you are doing that. Hon Mr Farnan: So the presumption again is based on a false premise. Certainly, we are looking at a common pause day so that it will strengthen families and community values in Ontario, so that it will protect retail workers. |

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Thursday 1 August 1991

Journal des débats (Hansard)

Le jeudi 1 août 1991

Standing committee on administration of justice

Retail Business Establishments
Statute Law Amendment Act, 1991

Comité permanent de l'administration de la justice

Loi de 1991 modifiant des lois
en ce qui concerne
les établissements de commerce
de détail



Chair: Drummond White
Clerk: Lisa Freedman

Président : Drummond White
Greffier : Lisa Freedman

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday 1 August 1991

The committee met at 0856 at the Cranberry Inn, Collingwood.

RETAIL BUSINESS ESTABLISHMENTS STATUTE LAW AMENDMENT ACT, 1991

LOI DE 1991 MODIFIANT DES LOIS EN CE QUI CONCERNE LES ÉTABLISSEMENTS DE COMMERCE DE DÉTAIL

Resuming consideration of Bill 115, An Act to amend the Retail Business Holidays Act and the Employment Standards Act in respect of the opening of retail business establishments and employment in them.

Reprise de l'étude du projet de loi 115, Loi modifiant la Loi sur les jours fériés dans le commerce de détail et la Loi sur les normes d'emploi en ce qui concerne l'ouverture des établissements de commerce de détail et l'emploi dans ces établissements.

The Vice-Chair: I would like to call the meeting to order. First of all, I would like to say that we are all quite happy to be here in Collingwood on August 1, this being the first day of our road show, as you can see, on the public hearings on Bill 115.

Before we go into the public hearings, I would like to call upon the honourable members to duly elect an acting Chairman for the duration of the public hearings. Are there any nominations?

Mr Mills: I would nominate Mr Cooper.

The Vice-Chair: Any further nominations?

Mr Sorbara: Is this a free vote?

The Vice-Chair: Yes, it is.

Mr Sorbara: I will second the nomination of Mr Cooper.

The Vice-Chair: There being no further nominations, I declare Mr Cooper duly elected.

COLLINGWOOD AND DISTRICT LABOUR COUNCIL

The Acting Chair (Mr Cooper): Could we have the first group of presenters, the Collingwood and District Labour Council?

You will be allowed half an hour for your presentation. You can either make a half-hour presentation or else you can make a short presentation and allow time for questions and comments from each of the caucuses which will be split evenly.

Please introduce yourself for Hansard.

Mr Doupe: I have prepared a brief on short notice. My committee has been away. My name is Murray Doupe. I am the president of the Collingwood and District Labour Council, which is affiliated to the Ontario Federation of Labour and the Canadian Labour Congress in Ottawa. Our labour council represents five unions and approximately 1,000 workers.

We are committed to working towards a program for the retraining of unemployed workers. We feel that Bill 115 fails to recognize the right of workers to a common pause day. The wording in the proposed amendment to subsection 4(2) says "shall take into account" and "should be maintained." However, the council in passing a bylaw failed to maintain the principle that holidays are to remain a common pause day, that is, to ensure they remain days on which most businesses are not open and most persons do not have to work.

In Collingwood, Sunday shopping has been passed by the town council so that any or all stores can be open on Sunday.

On July 28, 1991, in our local paper a full-page ad appeared for Zellers giving 25% to 50% off certain goods only if they were purchased on Sunday. The ad read, "The lowest price is the law." If businesses can give discounts on Sunday, why not the same discount any day from Monday to Saturday? This would bring the consumers in during the week and still give the people jobs in this time of recession.

Closing the doors for a common pause day, as we have traditionally done in Ontario, is not going to send consumers storming from this area to cross-border shopping; it is at least a three-hour drive. Tourists do not come to Collingwood because of open Sunday shopping. They come to ski on our many ski slopes, to boat in our waterways and to enjoy our other summer and winter sports activities.

All Sunday shopping will do is spread some of the hours of shopping over a seven-day period instead of a six-day period. The staff will not be increased, the hours they work will be adjusted according to peak sales times. Workers in general do not want to give up their Sundays. Because of Sunday work, families and friends have been kept apart on the only day most people can plan to be together.

In Collingwood, we have no day care open on Sunday, private or public, which presents yet another problem for the working parent. Where do they find care for their children? Our public transit does not run on Sundays or holidays, thus presenting another problem for workers and shoppers.

In this community, if the large grocery chains such as Loblaws and IGA were to stay open on Sundays the small, family-run corner stores would be unable to compete; they would be forced to close, thus putting more people out of work, because these small stores hire students to work part-time.

In Collingwood, we have many workers who, because of their choice of occupation, have to work some but not all Sundays—police, ambulance workers, firefighters, just to name a few—but their shifts are so arranged that they

are not required to work every Sunday. They still have some Sundays to spend as a family unit.

Surveys have shown that opening on Sundays does not create extra business; it just spreads the same amount of shopping to an extra day. In Collingwood, most of the large stores are now open at least 72 hours each week, providing ample time to shop.

In British Columbia, they have had open Sunday shopping for at least 10 years. Cross-border shopping has not decreased, it has increased, so Sunday shopping does not play any big part in the number of Canadians going to the US to shop. But their lower prices, our high taxes, free trade and the GST do play a large part in the reasons for going.

Open Sunday shopping can create problems for single mothers who find they have to work part-time. It affects the time they can spend with their children. Take, for example, a single mother in British Columbia, with two children, ages 13 and 15. She is a part-time cashier at a store in North Delta, a suburb of Vancouver. She rarely sees her teenagers. When they come home from school, she goes to work.

On the weekends, she is at work. On holidays, she is at work. She keeps in touch with them through notes scribbled on bits of paper. Here is one week's schedule: Monday, day off; Tuesday, 6 pm to midnight, gets home, quickly unwinds, gets some sleep; Wednesday, 10 am to 2 pm, hardly worth going to work; Thursday, day off; Friday, 6 pm to 10 pm, catches the bus, it is a 35-minute ride home; Saturday, 10 am to 6 pm—it is the busiest day of the week—gets home and is wiped out; Sunday, 9 am to 6 pm. They call this part-time.

What if she needs a Sunday free one week? She can request a day off, but she might lose two shifts that week as a result. "You do not ask very often," she said. Needless to say, where is the protection for asking for a Sunday off?

The end result is a negative impact on the employee's obligation to the family and religious beliefs; ultimately it puts a strain on the employer-employee relationship. Most of the workers only know what is promised at election time, not a full understanding of the workings of all the acts and bills that are being changed and amended.

The biggest argument against Sunday shopping is the social cost. One working parent on a Sunday means families cannot be together for meals or activities. Surveys have found that senior citizens in nursing homes get fewer visits and fewer outings with their families in areas where Sunday shopping is allowed. Attendance has dropped at family entertainment spots and church attendance has dropped even more. We need a common pause day of rest. As we watch our society change, let's take a step backwards in Collingwood and think, "Do we really want the effects that Sunday openings will bring?" I think not. To prevent this from happening, we know that there is only one way. We need a strong provincial law to stop the further erosion of our way of life.

The Acting Chair: Thank you very much. There will be about seven minutes for each caucus. Mr Sorbara.

Mr Sorbara: I want to thank the presenter for his submission. It is very reminiscent of the submission that

we heard from the Labour Council of Metropolitan Toronto. My first question relates to your membership. You say the Collingwood labour council represents approximately 1,000 workers. What is the largest component of those 1,000 workers?

Mr Doupe: I do not know whether I quite understand your question.

Mr Sorbara: What is the biggest local union which makes up the 1,000 workers in the Collingwood labour council?

Mr Doupe: That would be the glass and brick workers, LOF Glass of Canada.

Mr Sorbara: Right. Now, is that facility open on Sunday?

Mr Doupe: Yes it is, Mr Sorbara.

Mr Sorbara: Is the Collingwood labour council organizing its troops and its forces to try and force that plant to close on Sunday?

Mr Doupe: No, that is not the point at all. I believe that the people who work there on shifts have days off through the week; and, you know, not everybody works every Sunday. Nobody is trying to force—

Mr Sorbara: The reality for Sunday openings in the retail sector is that very few workers have to work on Sunday, and even fewer have to work every Sunday unless you own the business yourself. If it is a one-person operation or a husband-and-wife operation, often the family members will keep the business open on Sunday if they choose. But the evidence that we have heard before this committee—at least from the hearings and we only have had hearings thus far in Toronto, but we are going around the province—is that most employers have a list of a few or as many as hundreds of people who are anxious to work those Sunday hours. One employer who has about 15 employees says he has a list of some 200 people, mostly students and young people who are looking for extra hours, and who are anxious to work if the store is open and if they qualify to work those hours.

So we are talking about even fewer demands on the workforce than would be the case at the glass works. What I cannot understand from labour councils is, if you really believe as you say in your first page, that most persons should not have to work on Sundays, why is the labour council here not trying to close down LOF?

Mr Doupe: I do not understand why you keep coming back to LOF. I do not think that was my point.

Mr Sorbara: Because it is a major employer and virtually every other worker in the province—whether you are a nurse or a firefighter, whether you are an auto worker with the CAW in Oshawa—virtually every other member of the workforce might be called upon to work on Sunday. If I am a secretary in a lawyer's office, that lawyer could say, "I'm sorry, I need you to come in on Sunday," and while the worker can refuse under the Human Rights Code, there is no other legislation to prevent that worker from being required for Sunday work. It just seems to me to be terribly inconsistent of the labour council to be arguing that no retail worker should work on Sunday, and

yet you are not mounting a campaign to close the industrial establishments, which are the major employers, on Sunday. Retail workers represent a small fraction of people who work on Sunday. Is that not somewhat inconsistent?

0910

Mr Doupe: The corner store that we spoke about, yes, they are family businesses and I would hate to see big corporations like Loblaws and IGA and so forth stay open all day Sundays and close these family stores. Students need work for summer. They need work to go back to school.

Mr Sorbara: Most students work all year round, part-time.

Mr Doupe: Not in this area, they do not. There are no jobs for them.

Mr Sorbara: But we are trying to make laws for the province as a whole.

Mr Doupe: I can understand that, but I am just saying to you, why not give students more work on weekends, because that is the only time in a lot of cases they get the opportunity to work, especially if they are going to school through the year. I am not against drugstores opening and this sort of thing; I am not at all. I am just saying total wide-open Sunday shopping.

Mr Sorbara: I appreciate that but even most of the big stores have said that they provide work for students and people who want to work part-time. Indeed, this government in its wisdom is presenting the most stringent rights in its bill so that nobody is going to have to work on Sunday in the retail business if he or she does not want to. Yet labour councils are still saying: "It doesn't matter. Still close the stores." But you are not arguing to close down the major manufacturers on Sunday. I just cannot see how that is consistent if your concern for workers is comprehensive.

There are lots of single mothers who will be working in your plant or in General Motors who have to put in that one Sunday a month on the assembly line. Why should they be required to work, and yet if you work for Loblaws and you want the opportunity to do those Sunday hours because it means more in the family bank account, the labour council argues that you should not have the opportunity to do that, particularly when you are protected by such strong rights in this bill?

Mr Doupe: In Collingwood, Mr Sorbara, we used to have the Collingwood shipyards. They hired 1,000 people. All of a sudden, for some reason, the shipyards closed. I am not knowledgeable of why they closed and so on.

Interjection.

Mr Sorbara: Mr Fletcher says it was because we were in power.

Mr Doupe: I would not even acknowledge that.

Mr Sorbara: Neither would he.

Mr Doupe: I am just saying that shipyards closed and we lost Bendix here, this sort of thing. I would hope that people would rather have a factory open and work Monday to Friday and be happy to get a paycheque instead of standing at a food bank.

Mr Sorbara: Absolutely. I agree with you entirely. I just think, and I will close with this, that it is high time we realized that some storekeepers need to participate in a Sunday market. We ought not to have the provincial government insisting that they have to close, particularly when to close might mean the demise of their business just like the demise of the shipyard here and some other things. I would encourage you, in closing, to reconsider that and talk to your workers about whether they really want the government in Toronto to pass an edict that says no store shall open in Collingwood even if the storekeepers and the workers want them to open and the citizens of the community want them to open.

Mr Carr: The goal the Solicitor General cited when he introduced the bill was to have a common pause day. On the last page of your submission you said, "We need a strong provincial law to stop any further erosion of our way of life." But on the first page you say, "We feel that under Bill 115 of the present act it fails to recognize the right of workers to a common pause day." So what you are saying is that in your opinion the government has failed to meet the mandate of legislating a common pause day. Is that correct?

Mr Doupe: I think it is the wording there in one section: "should be maintained." A little grey area, that is what I thought, in my opinion.

Mr Carr: You do not think this bill has done that?

Mr Doupe: I am really not that knowledgeable about government and how it works, and I think there are thousands and thousands of people like me. But I am saying that when presenting this brief, we felt that just the words "take into account" and "should be maintained"—

Mr Carr: You are not alone in that. I have been here since September 6 and I find it is strange to see how government works sometimes as well. We are all learning as we go along.

The next question I have relates to the protection of workers, which I guess is the paramount concern of yourself and the council. We heard from some of the employers in Toronto, some of the major employers of people, like the Bay and so on, where they said that they are even in favour of strengthening the protection of the workers so that they do not have to work. A couple of them said: "We have workers in our retail stores who do not want to be there, and if their faces are hanging down to the floor it is going to hurt sales. We would rather have people who want to work." Some people are concerned because they say you get forced into working, even though there are really tough laws in place. Some of the protection they have here is where you can, say, refuse to work and give notice that you do not want to work on Sunday, even at the last minute, even if you had agreed to it before. What would you say to those employers who say that we can protect the worker; we can legislate and put in protection for the workers so that they do not have to work, for whatever reason—if they want to spend it with a family, or because of religious reasons they do not want to work on Sunday. Some of the employers say it can be done. What would you say to them?

Mr Doupe: I do not have a big problem with that. I am just saying if a person is forced to work on a Sunday and be away from the family every Sunday, I think that is a bad thing. If the employer said they could arrange for them to be off without penalty and that, then I cannot see any really big problem with that. I am just saying as long as it is not wide-open Sunday shopping.

Mr Carr: One of the things that has come up too is that some of these people who have been in the business say they see an increase in employment. Different people were giving different figures. Some of the large employers said as many as 2,000. Some of them would be part-time. But if in fact it is true, there were quite a few of them who came through who said that they would be hiring more people. Conceivably, in a lot of places you would actually be looking at an increase in membership, if they did in fact hire more people. But I was just wondering whether you believed that and, if so, why you would not be interested in something that would potentially increase the membership and the amount of employment for your particular groups. Do you disagree with that? Is that why? Maybe you could enlighten us on that.

Mr Doupe: I do not know about other places, but I know about Collingwood. As far as the bigger chains go, I have spoken to some—one chap in particular at Loblaw's—and they felt business had dropped off on a Sunday and they really did not need that many people to work. They just moved them around or whatever. If the bulk of your business is not on a Sunday, it is on Saturday in this area, because most people want to be on the beach or wherever on Sunday, like Wasaga Beach in this area, or hiking, or enjoying the outdoors, especially in the summertime, and mostly in winter too, because with the skiing here, a lot of people are on the slopes—in a lot of cases, you can buy groceries in Toronto cheaper than you can here, whether it be for transport, whatever it may be, for materials. But a lot of people bring their goods with them and go right to their cottages on the weekends, especially on Sundays. As far as increasing and hiring people to work on Sundays, their business is just not there.

Mr Carr: Some of the tourist groups are saying we are in a competitive position and that people, for example, in the United States who are looking for places to go to spend their tourist dollar can go to New York state, and many of them are coming into Ontario—we forget about that—and that a lot of those people are used to having Sunday shopping and come up here and think it is here. Then when they find out it is not, they go back, and word spreads to the people back in New York state that Ontario does not have it. While there are a number of factors, certainly the beautiful area up here being the number one attraction, it is a factor in people deciding, for example, in New York state, to come up here for a weekend. Do you think that is not the case, that they do not consider Sunday shopping as being a part of it, or how would you deal with that?

Mr Doupe: As far as Americans coming to Ontario or the rest of Canada, I think they are a little hesitant at the moment because of the cost of gasoline and the cost of goods. I know we have some American friends and they have said it is really costly to come. They love to come to Ontario, and especially the ski areas, but if it costs any

more—it is getting phenomenal, especially for goods and gasoline and so forth, so they would rather spend their time in their own area.

Mr Carr: All I can say is it is a beautiful area and Americans are missing a great deal if they do not come up here.

Mr Doupe: I agree.

0920

Mr Fletcher: Thank you, Murray, for the presentation. I have just a couple of questions and a couple of comments. As far as the employee protection part of the bill is concerned, do you think it should be a little tougher, strengthened a little more? Is it okay the way it is?

Mr Doupe: I think it should be very clear. I feel that, as I said before, it should be maintained. I should be on holidays this morning, but I am here, so I am just saying that to be very clear about the wording.

Mr Fletcher: And just make it a little tougher.

The employees at LOF Glass, are they on a continental work shift?

Mr Doupe: Yes, they are.

Mr Fletcher: You know what a continental work shift is. Has that always been the practice at LOF?

Mr Doupe: To my knowledge.

Mr Fletcher: As for the labour council and what it was doing for other employees, I remember when I was president of the labour council in Guelph that Uniroyal in Kitchener went on strike to try to prevent the continental work shift coming in, which would have had them working Sundays. I know the labour movement is trying to make sure that people are not working every day of the week, and I applaud your efforts.

As far as working and the big stores that are opening—you alluded to what Loblaw's said. I remember the last time the bill was going around the province—Bill 113, which was the Liberal bill—Loblaw's was saying that rather than hiring more people, work schedules would simply be adjusted for existing employees to compensate for the extra day. I know you said that. Is that the practice you are seeing, or is that what you anticipate if wide-open Sunday opens up?

Mr Doupe: That is what I anticipate with wide-open Sunday—continental shifts at LOF Glass. I also work 12-hour shifts. I am an ambulance officer. I understand what it is to work on Sundays. I understand what it is not to be able to be with my children when one of them graduates, and so on, if I have to work. I understand that. When I took the job on, I understood that I had to work on Sundays, but, for instance, if you were hired to work and when you were hired there was no mention of Sunday work and then after you have worked there a few years, wherever you may be, legislation comes along and says, "You work Sunday," that was not part of your hiring. Of course you accept it. I do not mind working the odd Sunday, but I certainly do not want to work every Sunday.

Mr Fletcher: This is my last question. If Collingwood were to open wide-open for Sunday shopping, you do not have bus service on Sunday, so it means that would have

to be an increase in cost. Your police forces would have to have extra people because of the increased shoplifting that could be going on.

Mr Doupe: As you say, there is no public transit on Sunday. It certainly is going to increase the workload on the police force, I would think, which would incur more costs to the taxpayer. All sorts of services, I think, would be more busy if they were open.

Mr Fletcher: Who is going to pay for the extra services?

Mr Doupe: It would be the taxpayers.

Mr Mills: Thank you very much for your presentation. As you know, the real thrust of this bill is to preserve the common pause day, and through that preservation of the common pause day to enhance family life. I am very interested in your brief. It is the first time there has been mention of the effect on seniors through not having visitation from their relatives who work on Sundays. I know from my experience in visiting senior homes how very important those visits are on the weekend. Thank you for bringing that to the attention of the committee. We are here to listen, and I thank you for that part of your very well put presentation.

Mr Morrow: I would like to thank you further for taking the time out to come and present this morning. I just wanted to touch briefly on LOF. They negotiate their continental work week, do they not?

Mr Doupe: I do not know much about how LOF negotiates. I do not know a lot about them.

Mr Morrow: Okay. I apologize for that. Obviously most retail workers in this area do not belong to local unions, so they would not have the protection of the union, or the LOF.

Mr Doupe: That is correct.

Mr Morrow: This bill would therefore basically help the retail workers in this area.

Mr Doupe: I believe so, yes.

Mr Morrow: The last question I have is that you have talked briefly about being able to shop in six days and not in seven, and the amount of money being spread out over seven days would be the same as six. You have also talked about the demise—I guess what I am basically getting to is that if the amount of money of six days is spread out over seven, you are not really creating any new money in the municipality or the area.

Mr Doupe: No, I do not believe so, not when we are open approximately 72 hours every week.

Mr O'Connor: I found your brief very interesting. Perhaps you could elaborate a bit on the devastation that must have taken place when the shipyards left. The community must be really trying to build up on the tourist aspect of the area. Would you believe that is correct?

Mr Doupe: I understand your question. To promote tourism?

Mr O'Connor: Yes, in this area.

Mr Doupe: Definitely. We certainly depend on tourism in Collingwood, but you need the year-round hourly

worker to look after the services to pay the bills. Tourists are fine, but you really cannot depend totally on tourists. We enjoy having tourists. Tourists are a big part of this area, but you need the hourly working people. We need industry here. I hope everyone is listening. We need industry here.

Mr O'Connor: Increased part-time work will not help the economy then.

Mr Doupe: I do not think so.

The Acting Chair: Thank you very much. The time is up. Mr Doupe, on behalf of the committee, I would like to thank you for your presentation.

BARRIE AND DISTRICT MINISTERIAL ASSOCIATION

The Acting Chair: I would like now to call somebody from the Barrie and District Ministerial Association. I would like to thank you for appearing today. What we do is we allow you a half-hour. You can take that time any way you choose. You can do a half-hour presentation or you can do a short presentation and then the remaining time will be allotted among all three caucuses equally. Could you please identify yourself and proceed.

Mr Storey: My name is Arthur Storey. I am the minister of Grace United Church in Barrie and I have come representing the Barrie and District Ministerial Association.

I would like, if I may, to present this brief and then respond to questions. I might say off the cuff, before I start, two or three things. One of the things: I am very nervous. I do not know why. I hope this is a friendly process.

The Acting Chair: It is very friendly.

Mr Storey: The way the process of notification and general direction on how to prepare a brief was carried out was a little bit disconcerting. I received the instructions on how to prepare a brief yesterday in the mail, and this being my first endeavour, I hope you will bear with me.

Mr Mills: It is like preparing a sermon.

0930

Mr Storey: Thank you. You will find that much here is in general terms, but I will proceed.

On behalf of the Barrie and District Ministerial Association, an organization representing the Christian churches of Barrie and region, here are presented certain concerns for your consideration in relation to current and proposed legislation dealing with business opening on Sundays and holidays and a common pause day.

Remarks will be gathered around four areas which, for convenience, are labelled a practical concern, a social concern, a political concern and a religious concern.

A practical concern: The practical concern relates to an apparent ongoing inconsistency in past and proposed legislation vis-à-vis those businesses that have been and apparently will be exempt from Sunday and holiday closure provisions, ie, the hospitality industry. Implied in the general language of the proposed legislation is an entitlement, if not right, for workers to refuse work on Sundays and holidays for all workers except those employed in exempt businesses. This seems neither fair nor just. There must

have been a valid principle behind this entitlement to refuse work on Sundays and other holidays.

Such businesses that are not essential to life and health, such as those that are hospitality- and tourism-related, seem to have been stigmatized and left uncovered in relation to this entitlement. Such businesses, by the nature of the employment offered—hourly rated, unskilled service—encompass many workers without the skills or practical leverage to negotiate or bargain for their work time in relation to their family or personal quality-of-life needs. Many health care workers suffer from a similar vulnerability and they are also exempted.

These workers may have more need of the support of legislation than others if they have been specifically left out. Expediency and commercial interests here seem to be the determining forces, not justice. Proposed changes in the legislation do not convincingly seem to address this inconsistency. Admittedly, this is a difficult matter to govern. However, the provincial government, by its very nature, is the main practical defence of the worker in general and is the body most able to shape and protect the quality-of-life issues in our system. It seems reasonable to expect the provincial government to maintain concern and initiative in the practical matter of fairness and justice for all workers, no matter how complex the issues.

Simply, why should any group of workers be left outside the protection of legislation providing for the negotiation and determination of their quality of life in relation to work hours, particularly workers who may be very vulnerable? Does proposed legislation really provide effective protection for all workers?

A social concern: It would not be a stretching of reality to premise that the pressure for liberalizing opening hours on Sundays and holidays for retail businesses comes from large commercial interests whose motivation is largely profit or market share. The media have indicated that you have already received some forceful presentations, including some dire warnings.

In a capitalistic, market-based society, profit is not a bad thing. On the contrary, a healthy economy benefits everyone. However, arguments that support marvellous economic advantages of open Sundays and holidays must be judged by who presses the hardest. Apart from some voiced concern regarding the convenience of shopping hours from among consumers, there has not been a large groundswell of public demand for change in this area, even after some opportunity to experience the new scenario. Large commercial interests are the ones who speak and demand the loudest. Small businesses, churches, community groups, workers' organizations and many others speak about a concern for the quality of life for families and individual workers.

Our history, traditions and legislative practice have stated in effect that while accepting the value and worth of commercial enterprise to society, we prize above all the value of people, the dignity of workers, the stability and worth of the family and the quality of life of people. The reason we have any discussion of these issues and have legislation upon which to work grew out of the struggles in the 18th and 19th centuries to establish these values during

the Industrial Revolution. Often Christian leaders and churches then led the struggle, out of direct concern for the vulnerable and oppressed in society. Sunday laws were instituted to give a pattern of protection, rest and even education to workers long before they became directly related to religious customs or practice. These original concerns still are being expressed by the churches.

Again, the provincial government, more than others, is the body that has had and still has the paramount position in this whole area of quality of life and it must not lose patience in the complexity of the problem or devolve upon others this serious responsibility.

There is a current crisis in the ongoing problem of maintaining the quality of life among our people and families. The pace of life, the pressures of a materialistic society, the rapidity of change are all creating incredible strains. Statistics of all kinds—family breakdown, abuse, chemical abuse, crime, etc—all point to this as fact. The cost of failure to attempt to deal practically with the dynamics here will never be available for comparison with profits gained. In human terms, loss here is loss for everyone.

A political concern: The concern here is that proposed legislation lays responsibility for decision-making in this whole area upon municipal governments. These governments are the most vulnerable to pressure of a financial and commercial nature. Although most accessible to local conditions, councils are the most vulnerable to the uncertainties of economics and the pressures of special interests. These councils lack the traditions, the overview, the resources and the machinery to be truly disinterested and just to businesses, workers and families. They are too close to the particulars to have the luxury to consider the general good.

Given the already expressed concern of this particular provincial government for quality-of-life matters in general and the urgency and history described elsewhere in these comments, it seems inconceivable that this proposed legislation would be passed without at least guarantees of responsible ongoing involvement of provincial authority built into the draft legislation.

As an aside, frankly the amendments that relate to the Employment Standards Act appear to provide no real protection for workers. In fact, they seem to guarantee abuse and hardship for those workers who think that they have rights and entitlements.

A religious concern: It is our concern that in the past revision of the legislation under discussion, and in current discussions, the subject of religion is not discussed. In fact, it is avoided. There was a very religious element in the development of early legislation. Like it or not, religion, not specific religions, is a very real part of the reality of life and society. In all these discussions the subject of religion is not being allowed to surface. While this subject may not seem to fit into the immediate matter at hand precisely, it should certainly be of concern to this standing committee and any discussion that relates to justice and quality of life in our society.

Built into the original and subsequent laws which governed Sundays and holidays was a guarantee of the integrity of faith and the right and importance of religious

practice. Few legislators then shrank from asserting these values. Practically, the value of faith in the individual, and religion in general, was acknowledged.

True, this was a society that saw itself as uniquely and generally, if not solely, Christian. The demise of that homogeneous or one-religion society, or rather the growing of a multicultural, multifaith society, and a growing concern for separation of church and state, have resulted in the elimination of all reference to religion in the discussion of this and almost all legislation. This is unfortunate, because lost also has been much discussion of the rights and, more importantly, the value and place of religion. The fact that, universally, declarations of human rights and freedoms defend specifically the freedom of religion implies not only the importance of the individual freedom of faith and the practice of religion, but also the intrinsic value of both for life in general.

In the process of ridding ourselves of the embarrassment of discussing a difficult issue, have we left out something vital? Given the immense potential contribution of religion and religions to society, have we missed something important? In our widening and developing concept of society, do we fail to secure for all people what was guaranteed for the Christians and, admittedly, a few others in the early legislation, namely, the right of freedom of faith and the practice of religion? Did we thereby deprive ourselves of the benefits of religion in general to the quality of life in our society?

0940

The term "holiday" is, in its original definition, a religious event or period of time. Where is the protection and the guarantee that existed heretofore, more narrowly, for the individual to live and practise his or her religion? Practically, it would appear that the right or freedom and the ability to practise religious faith are unprotected.

This whole area of life can be dictated and controlled by an employer. We are "entitled" to vote, and provision is guaranteed to make that possible. We are "entitled" to leisure time, and now that is provided for. We are "free" to worship and practise religion, but not "entitled" to do so, nor is provision made. Where do religious holidays, the original holidays, get protection from this society that otherwise seems dedicated to the richness of inclusiveness and diversity?

Ladies and gentlemen, this is not a mingling of church and state. It has very little to do with organized religion. It has rather to do with fundamental rights and the value of a varied and powerful force in our society. Not to have a concern for this area does not, as it may appear, create a situation of equality and justice. On the contrary, it can leave free all the unfortunately incipient and destructive forces of bigotry, racism and prejudice which will do their ugly work and, at the same time, deprive us of a wealth of richness, variety and intrinsic good. Dare we continue to ignore such a difficult but important element of life? Is it sufficient to throw up the hands and say it is not our job?

Finally, and in conclusion, may we express our surprise that the proposed legislation seems committed to a common pause day but does not seem to really strongly denominate that pause day as Sunday. Practically, we now

have a common pause day in Sunday. Why is this day not specified more strongly to entrench the idea? If the rationale is in some way to attempt to reduce attention to what is seen as a "Christian" day, the result will likely be failure. We have a common pause day now in Sunday. Its associations will change in time but the loss of that particular day could very well mean the loss of this rich potential resource for ever. It would seem to be better to preserve what we have and enhance it strongly for the value of all.

The effect of some of the wording in the proposed legislation and the lack of a strong emphasis on establishing Sunday as a common pause day does raise the question: Is this a sincere effort to deal with the Sunday and holidays issue, to establish a genuinely universal common pause day, or is this a good-sounding but in the end meaningless legislation? This is a question that concerns our organization very greatly.

Thank you for your attention.

The Acting Chair: That leaves about five minutes for each caucus.

Mr Daigeler: Thank you very much, and you do not have to be nervous. We certainly appreciate that you took the time to put your thoughts down on paper and to appear before us.

We did have already a presentation from a ministerial association yesterday, and you are here today to represent, I presume, an interdenominational group of ministers. Obviously, by the fact that you are representing the ministers, one could be left with the impression that it is just the ministers trying to protect their particular bailiwick in terms of making sure that people can come to their congregational services on Sunday. I am exaggerating, but I think sometimes the feeling can be left out there that this is what it is.

I would like to ask you to what extent that question of Sunday shopping, Sunday work, time off, is being discussed, not just by the ministers but by the members of your congregations. You were referring to the fact that there has not been a large groundswell of public demand for change. At the same time, if I am not mistaken, Collingwood has decided to be open, so there seems to be some support. I am just wondering to what extent you are speaking for the ministers, as it were, and to what extent you are speaking for the members of the congregations.

Mr Storey: I can only give an impression, and I think that I speak both for the ministers and the congregations. I would like to point out that church life, religious life, is a seven-day activity. At this particular point I do not think church attendance is affected as much by these circumstances as many people think, but the seven-day activity that involves ministers and their people has to do with the quality of life.

The level of counselling that professional ministers find themselves engaged in, the ongoing dealing with the problems of family life, is what raises most of these issues. It is not so much whether we have formal attendance of worship on Sunday; it is the general quality of life of our own people and the people around us. This is where most

of these comments have come from: a deep concern for trying to hold family life together and face the realities.

I think perhaps I am suggesting that what we hear from a legislative point of view does not really reflect a confidence in the actuality of families being able to have much say as to what happens. If I could just give you a point of reference, a large amount of the commercial activity on the weekends takes place with part-time workers. This involves a large number of young people in families, teenagers. These young people have their own reasons for working. They are not likely to resist the strength of an employer when the employer dictates when they will work. Therefore that feeds back into the family and the family's ability to enjoy life together and so on. That is where we—

Mr Daigeler: If I could just interrupt a little bit, because we have only five minutes for each caucus. I appreciate what you are saying, but where I am coming from is that, so far at least, we have had quite a few people come to us and say, "I want and I have the right to work on Sunday and you are taking it away from me by not giving me the opportunity to do business on Sunday." I think it makes it very difficult, certainly for me as a politician, to argue, "No, you shouldn't have that right." That is what I am trying to say. You may have the view that you are putting forward, but is that a view that the members of your congregation are sharing, and are they actively discussing it? Are they doing something about it?

What I am trying to say is that it is very difficult for us to legislate something that is not supported by a large number of people. At least from the representations that we have had so far, the mood seems to be going in the other direction; namely, people saying, "I have the right to work on Sunday and I want to work on Sunday."

Mr Storey: I must admit I have not heard this kind of thing. I certainly have heard a lot of small business people complaining that they have to work now because they have to be involved in the marketplace to maintain their share of the market. I hear a lot of small business people complaining about this. I do hear those who are employed in large businesses really saying, "When it gets down to it, if the employer says I have to work, I have to work." So you have workers who are complaining about the situation in a larger commercial establishment where the reality is that if the employer says you have to work, you will go and work. You do not have the resources to resist the pressure of the employer.

I might quote one person who finds himself in a high level of a commercial endeavour in a department store, who says, "When the sales are at their peak, you put in your best team." If Sunday is the day the best sales are going to take place, then you will see that your best employers are there. This is the kind of reality in the business world that our people have to deal with, and we are trying to help balance that against people who are struggling to hold family life together.

Mr Carr: Thank you very much for your presentation. It was an excellent job. One of the concerns that many people have, or some of the people like yourself

who are opposed to Sunday shopping, is that the tourism sections are so broad, and virtually the entire province could be allowed to open. As I look at them, there is not a place in this province that does not meet the criteria.

As a result, many people feel that what is going to happen is that it is going to take a longer time, but there is going to be Sunday shopping. It is going to be a snowball effect. Windsor is going to open and then the neighbouring municipality says, "They're open, so we are." Collingwood opens, so neighbouring people say, "We're going to lose business," and they will open. Is that the way you see it happening with the present legislation? Maybe I could just ask for your comments on that, if that is what you see happening over the next little while.

0950

Mr Storey: That is what I and many of my colleagues are afraid is going to happen. It will be a general erosion. It seems to be a matter of market share, of not missing out, and therefore we are afraid this will happen. I really am worried that we can stop this process. I know it sounds like a radical kind of solution, but we think the social costs, the personal costs, are worth the effort. We really do think this is what will happen.

Mr Carr: What about some of the other areas? There are many industries. For example, in this day and age you can go out and drink beer on Sunday. You can go to a movie theatre. I come from the Oakville area. You can go down and watch the Blue Jays, for example. What do you say to people who say there are many things that you can do in society and to be fair you should either shut everybody down or open everybody up? What do you say to those people? Are you in favour of cutting back, for example, on movie theatres and the bars and so on? Would you move us back? How do you answer that suggestion that it is not fair, that shopping is no different than going to a baseball game or a movie theatre?

Mr Storey: I cannot speak for all my colleagues in this particular area, because there is as much diversion of opinion on this as there would be in any other area. Personally, my own feeling is that there are differences of activity and we have to accept the fact that shopping has become almost a leisure activity. So it is really difficult.

However, we seem to have reached a kind of balance about those things that add to the quality of life. Leisure activities, sports and so on, have been accepted as part of leisure-time activity, and that does require some people to work. But that does not necessarily mean that therefore everything has to open.

In the last presentation somebody asked about the tourists coming from the United States to visit in Canada and not being able to shop. I do a lot of travelling myself, and what my expectations are as a tourist are not the same as a local inhabitant's. The wide-open shopping is not of as much interest to me as the things I am interested in that relate to tourism. However, the local retailer who is looking for a market share might see that from a different point of view. I am sorry, I am not sure I answered your question.

Mr Carr: It was helpful. The other area, and this is the area where obviously you are the expert, gets into the

religious field. A group of ministers from one of the other areas came in and was quoting from the Bible—how, strictly speaking, if we were to interpret the Bible and the commandments about not working on Sunday, we should not be going to baseball games and things like that.

That is why when we start saying “on religious grounds”—and I know you put something in there—if we were to interpret it, then to be fair everybody would have to close down. I am just wondering why, in order to make the argument, we throw in the religious aspect of it. Is that a big thrust of the reason that you do not want to, because of the basic principles and the commandments?

Mr Storey: I hope you will not misunderstand what I said about religion. There are people in our society who feel bound by religious laws to conform to certain behaviours. This representation really does not take that point of view. In a multicultural, multifait society, we have to be fair to all people. If some people feel they cannot work on Sunday, then they need to be protected, I feel, as their religious right, but we are not advocating that.

The suggestion that had to do with religion really is that all religions seem to have been left uncovered with the change of legislation and practice, so that where at one time Christians at least had the advantage of the practice of their religion, now none of the religions has any opportunity to negotiate, with the support of the government, some of the things that relate to the practice of religion. Any religion—pick one—has some things that the worker would like to be able to negotiate with his employer to allow him or her to practise his or her faith. That is where my point of view is coming from, in more broad terms. As for rules as to whether you should worship or work on Sunday, that should be, with proper protection, worked out between the employer and the employee.

Mr Wessenger: First of all, I want to thank you for a very thoughtful presentation. I would like to zero in on some of your comments with respect to the amendments to the Employment Standards Act. To start with, you indicated you feel the amendments provide no real protection for workers. Is that a general statement or is that really applied to those workers you identified in a weak bargaining position, the ones, for instance, that do not have union representation? It would be fair to say, I think, that members of the union would certainly have more than adequate protection under the act. Is it those more susceptible part-time people you are referring to there?

Mr Storey: I am referring to those who are the most vulnerable, those who are not protected by systems. The legislation says one thing, but can it deliver to the single mother who really must work a number of part-time jobs to keep things together, or to the teenager who is a very integral part of our commercial system? These are the people we are most concerned about.

Just as my own response, I have three daughters who are all involved in this process. One, during the last series of open Sundays in Barrie, was informed, when she said she did not want to work on Sundays, “Well, temporarily you can do this, you can refuse to work on Sunday, but when we see how the law settles down, we may have to

make a decision about whether you can stay with us or not.” How can you fight that kind of logic? It is so easy to shuffle people around and lose the ones who want to make a stand.

Mr Wessenger: Do you see any means of strengthening the amendments to the Employment Standards Act, or do you think it is just a problem that cannot really be resolved through protective legislation?

Mr Storey: Is it fair for me to say that I think it cannot be made stronger?

Mr Wessenger: Yes.

Mr Storey: That is the optimist in me. I think it could be made stronger to make certain there are systems to protect those who do not have leverage in the society.

Mr Wessenger: Do you have any specific suggestions in that regard?

Mr Storey: Without some kind of system and the ongoing involvement of the provincial government, I cannot see how any protection could be very effective. If there is not some kind of point of recourse that relates to an authority strong enough to have some weight, I cannot see how any legislation will really protect.

Mr Wessenger: Would it be fair to say that it might be a question of administrative backup, of when you had the strong administration, it might be workable?

Mr Storey: I would hope so.

Mr Wessenger: Is it fair to say that you see the basic thrust of protecting workers as the whole question of restricting the opening on Sundays?

Mr Storey: I am sorry.

Mr Wessenger: The main thrust of protecting the common pause day is the restrictions on the Sunday openings. Is that where you see the main aspect of protecting people, protecting families?

Mr Storey: From our point of view, yes, I think so.

The Acting Chair: Thank you, Rev Storey. On behalf of the committee, I would like to thank you for your presentation.

Mr Storey: Thank you for the opportunity. I appreciate a system that allows us to do this, and your attention.

1000

TOWN OF COLLINGWOOD

The Acting Chair: I would like to now call on a representative from the town of Collingwood. The format we have been following is that you are allowed one half-hour. You can give your presentation for a full half-hour, or you can make a short presentation and allow questioning from each caucus. I understand we are starting with a 10-minute presentation on video.

Mr Lloyd: That is correct.

The Acting Chair: Could you please identify yourself.

Mr Lloyd: I am Councillor Rick Lloyd from the town of Collingwood. I have along with me Councillor Bonnie Griffiths as well from the town. Mr Chair, committee members, ladies and gentlemen, on behalf of the town of

Collingwood I want to take this opportunity to welcome you to our beautiful community. Hopefully, you will have time to visit and enjoy our attractions during your stay. In the event time does not permit, I have taken the liberty of arranging with Lisa Freedman a short video presentation. You will see Collingwood as it is today, and the potential for our area to grow, particularly in the areas of tourism, recreation, and leisure services.

[Audio-visual presentation]

1010

Mr Lloyd: The town of Collingwood, with a population of 12,500, stands in a very favourable position in every sense of the word. Both natural and man-made circumstances allow us to offer a long list of amenities one can enjoy in the most beautiful countryside of Ontario that you have just seen.

We are the major service centre for an area extending from Owen Sound to Barrie. Collingwood has the best of both worlds, close enough to the major population centres of Ontario and yet far enough away to enjoy an unspoiled natural environment.

Collingwood is committed to recreational and cultural activities and boasts over 150 clubs, organizations and associations that involve people of all ages. Organizations such as the Blue Mountain Foundation for the Arts focus attention on art shows, musical presentations as well as live theatre events.

Collingwood considers this area as a four-season tourist destination point. We are located less than a driving day away from a majority of the population of North America. Collingwood is well situated to take advantage of increased leisure time and spending. During the winter, Collingwood is transformed into the ski capital of Ontario, where downhill and cross-country ski enthusiasts enjoy excellent conditions. Top-level ski competitions that attract North America's best are hosted at the following ski clubs: Blue Mountain Resorts, Alpine, Craighleith, Devil's Glen, Georgian Peaks, Osler Bluff and the Toronto Ski Club.

Major local attractions include tours of the world-famous Blue Mountain Pottery, the popular Candy Factory, Kaufman house, Collingwood Museum, scenic caves and caverns, the Blue Mountain slide ride and water slide. The Georgian Triangle tourist and information centre offers convention services and lodging assistance as well as tourist information. The list goes on, with Wasaga Beach offering one of the world's longest freshwater sandy beaches. The Georgian trail, which we are quite proud of, 32 kilometres in length, offers cyclists, hikers and cross-country skiers magnificent views of Georgian Bay and the Niagara Escarpment with its interesting plant and animal life. There is more: hiking, sailing, golf, parks, fishing, flying and windsurfing. Need I say more. I sincerely hope you plan to move to Collingwood in the future.

Having said all this, what else do Collingwood and the three million annual area visitors need? Our retailers and real estate businesses must have the right to remain open on Sunday if they so choose. Council of the town of Collingwood, after hosting a public meeting on Monday, July 22, has taken the following position:

"That bylaw 91-47, being a bylaw under provision of the Retail Business Holidays Act to permit retail establishments to remain open on holidays, having been considered in committee of the whole, be presented, read a third time and finally passed this 22nd day of July 1991."

On behalf of council, the retailers and the citizens of the town of Collingwood, I urge the New Democratic Party of Ontario to consider legislation that will permit this community to grow and blossom, and I solicit the support of the official opposition and the third party.

Mr Sorbara: Thank you for a delightful presentation and a very good public relations piece for the town of Collingwood. I noted the reference to political stability. I take it, then, that the video was made before the last provincial election.

Mr Lloyd: Well, no, since.

Mr Sorbara: Yes or no.

Mr Lloyd: Perhaps.

Mr Sorbara: I saw the copyright date there. I understand that Collingwood has recently passed a bylaw. In fact, I understand Collingwood has gone through some real turmoil on this issue of whether or not its retailers should be allowed to open for part or all of Sunday and that, after much consternation, you have come to a resolution of that issue. In your wisdom, you have decided you will look after the Sunday market as you see fit. Is that right?

Mr Lloyd: That is correct. We feel the merchants should have the right to choose and that the need is there, very much so, in this community. Actually, I urge this constituent to look at it with the whole province because I feel we must have the right. In this day and age, I think we feel there is so much legislation that it is certainly nice to give the people of Ontario the opportunity to choose on their own.

Mr Sorbara: Has the result been that in Collingwood stores are open the same hours or in the same configurations as they would be, say, on a Saturday or a Friday?

Mr Lloyd: They are choosing, many of them, to open after lunchtime on Sunday. With the tourist atmosphere that is happening in this community, they find they are quite busy. We feel that with today's age, the way it is happening, the community has changed. It had been embroiled around the shipyard for so many years, but when we lost that major industry we definitely took the routes of tourism. We feel that we have to go out and assist our industries and our commercial retailers as much as possible.

Mr Sorbara: Since that time, have you noticed a deterioration of the quality of life of your community in the town of Collingwood or in the area?

Mr Lloyd: Certainly not; everything but.

Mr Sorbara: Have the pastoral associations and the various churches noted a dropoff in church attendance, that you know of?

Mr Lloyd: Not that I know of. I can sympathize very much with their concerns. I think they are real concerns of everyone in this room. I believe we have reached a milestone

and that it is time we took a very positive look towards this issue and get on with it.

Mr Sorbara: As a councillor, have you noticed any of your constituents who work in the retail sector coming to you with the message that they are being forced to work against their will on Sundays?

Mr Lloyd: Not so at all.

Mr Sorbara: If that were the case, would they come and talk with you about it?

Mr Lloyd: Yes, at this tier of government we are very amenable to phone calls and in fact people knocking on your door.

Mr Sorbara: Or at three o'clock in the morning.

Mr Lloyd: That is correct. I feel they would be there. I have not heard any concerns. In fact, I hear more concern of finding jobs in this community.

Mr Sorbara: Have the Sunday openings provided some new opportunities for people to work in the community?

Mr Lloyd: Yes, they have, definitely, for our students as well. As you are quite aware, it is very difficult this year for students to find jobs, and it has opened that avenue as well.

Mr Sorbara: Do you think that, if we created the same opportunities you have created in Collingwood for the entire province, the quality of life would deteriorate in Ontario?

Mr Lloyd: I do not believe so, sir. I think the quality of life will remain and that the church will become stronger.

Mr Sorbara: I just want to end by once again saying that was a pretty powerful piece. By the way, I think the piece, as it sets out what is happening in the global economy, is startlingly accurate. It is good to see that in Collingwood you are coming to grips with the internationalization of our economy. I hope you do get a chunk of the action here. I know how difficult it has been, particularly at the employment levels as you go through some very powerful restructuring. If you are aggressively recruiting the way that video indicates, it bodes well for the future, so good luck.

Mr J. Wilson: I too want to add my congratulations to the town and the council for the excellent video. It is the first time I had the opportunity to see it. It is certainly superb.

Mr Sorbara has covered most of the questions, as he very often does when he goes first.

Mr Sorbara: Repeat them and maybe you will get different answers.

Mr J. Wilson: No. Rick is very consistent, I can tell you that.

There has been some experience in the town in the past and recently with Sunday shopping. Can you tell us whether there is any preliminary data available—what is the word on the street for retailers? Is there an increase in retail sales, or is it really just spread out over the week, for instance, as the labour council said in its brief?

Mr Lloyd: No, I believe indications were very prominent last Sunday. Most retailers who remained open for Sunday shopping were quite thrilled with the turnout and the increased sales they had; as you are quite aware, Jim, we have a lot of weekend residents in this community. Unfortunately, that only gives an opportunity for one-day shopping, which is Saturday. But fortunately, with the opening this prior Sunday, there are greater sales in most of the stores that did open. They were quite delighted. It was profitable and an area that they feel will only get better.

Mr J. Wilson: Just to give the committee members a feel for the experience last Sunday, about what percentage of the retailers are open?

Mr Lloyd: I would say a good 35% to 40%.

Mr Carr: Getting back to this spread over the week, this is a tourist area. I will lay out the way I see it working. Tell me if I am wrong. I come from Oakville, from where many people come up to this fine area. If things are closed on Sunday they may still pick up the same goods, but they may go back to Oakville to pick them up and wait till Sunday. You are saying, then, that on the weekend, when your population increases dramatically with people coming from all over on the weekend, those people are spending their dollars locally, as opposed to going back home and spending it? Is that essentially what you are seeing has happened so that you are benefiting from it, and that regardless of whether people are spending more, this community is receiving more economic benefits?

1020

Mr Lloyd: That is very much so. We find that the problem with Sundays closed is that many people are bringing their goods from Oakville or Toronto or wherever they may be coming from. Thus, with the retail market being opened for them, they will spend more time shopping and spending money in this community. Again, that has become our largest industry for this whole area, the tourism aspect. I feel we must cater towards it and create as many jobs as possible. I really do not think at all that it will hurt the quality of life in the home.

Mr Carr: What was the vote in council?

Mr Lloyd: Unanimous.

Mr Carr: How many are on council?

Mr Lloyd: There are nine, including the mayor.

Mr Fletcher: That was a very good presentation. Is Bill 115, as it stands now, prohibiting you from opening up on Sundays? Is it standing in the way of anything you want to do?

Mr Sorbara: It is not the law yet.

Mr Fletcher: If it becomes law.

Mr Lloyd: If it becomes law with Sunday opening? We feel that allowing Sunday openings and allowing the retail people of Collingwood to open will certainly open a new avenue for extended businesses to advance in this community. We feel that with the closures, it is closing the door to the market in our community. As I have already indicated, with the tourism aspect being the largest industry

of our community, it is only sensible that the choice of that extra day of shopping or retail available should be up to retailers.

Mr Fletcher: As I said, I really enjoyed the video and I would love to be able to come up and play golf or go for hikes with my family on a Sunday. But if I am one of those people who is not a business person, just a working person as I have always been and if I have to work on Sunday, when do I enjoy all the things I saw?

Mr Lloyd: If you had the opportunity to work on Sunday, then you have the opportunity to go skiing on Monday when there are no lineups at the ski hills and so on. Quite often we can enjoy the less crowded avenues in our community during the weekdays. Sometimes it might be more unique to take a day off during the week, a day of pause perhaps on a Monday, Tuesday or Wednesday and enjoy your leisure time, Sunday being inundated with newcomers to the community as well as weekend residents. I feel it is a totally different atmosphere, perhaps, than other areas of Ontario.

Mr Fletcher: I just noticed in your brief that the retailers and real estate businesses really are pushing for this. I did not see anything about the people who have to work on Sunday pushing for this. That is a minor point.

There was just one other point, and this is from the July 23 Owen Sound Sun Times, where the person representing LOF Glass said that employees there are in favour of it because employees working seven days a week should be able to shop on Sundays. But they are working a continental shift. Those employees only get one Sunday off a month. It is not really a valid statement to say that is why they want it.

Mr Lloyd: Actually, as indicated through the history of the province, many do work continental shifts; many do not get Sundays or weekdays off. When we can enjoy shopping from Monday through Saturday, they perhaps get Sunday and Monday off and do not have the same opportunities to do their shopping as you or I would. So if stores are open Sundays, they will have the same right as everyone else in the province. The workers at LOF and some other industries feel that it would be quite an asset to have Sunday shopping available so that they could do their groceries and their shopping as every other citizen in Ontario has the right to do.

Mr Mills: Thank you very much for appearing here, Councillor Lloyd, and for your presentation. We are here to listen with a certain amount of caution and the government is intent on the common pause day legislation. However, the tourist criteria and the draft regulations for them will indeed allow a place like Collingwood great opportunities, as you put it, to grow and blossom.

Mr Sorbara: I just wanted to ask either Mr Mills or a representative of the Ministry of the Solicitor General for clarification, and it arises out of Mr Fletcher's initial question to our witness. Mr Fletcher suggested to the witness from the town of Collingwood that Collingwood would be able to do everything it wanted to do in terms of allowing the storekeepers to make a free choice under Bill 115.

As I read Bill 115, it says in subsection (3) of section 4 that: "A bylaw may be passed"—that is, allowing some

stores to stay open—"under subsection (1) only if there is compliance with the tourism criteria set out in the regulations made under this section."

Am I to understand from Mr Fletcher's question that a town like Collingwood could allow stores to stay open without reference to the tourism criteria?

The Acting Chair: Mr Mills, do you want to take that one?

Mr Mills: I have a legal adviser here from the Solicitor General and perhaps Janet would like to answer that.

Ms Scarfone: Janet Scarfone from the Ministry of the Solicitor General, legal branch.

In response to the question, a bylaw must be passed only if there is compliance with the tourism criteria, so the criteria have to be met before a tourism bylaw can be passed.

Mr Sorbara: In effect then, it is the case that unless the town of Collingwood identified an area or a particular set of stores as coming within the tourism criteria, they would not be allowed to stay open and that would be inconsistent with what they are doing now under the current law, is that right?

Ms Scarfone: What has to occur is that the area designated as a tourist area must comply with the requirements in the legislation before a bylaw can be passed.

Mr Sorbara: Right, thank you.

Mr Fletcher: On a point of order, Mr Chair: Does this bill impede them in any way? I did not suggest in any way that this bill was going to help or hinder them. I just wanted to know what they were going to say. I did not suggest anything.

Mr Sorbara: My problem was, by suggesting to the town of Collingwood that once Bill 115 is passed they would be able to do exactly what they are doing—

Mr Fletcher: It was your point that I did suggest, and I did not suggest that. I never would have suggested anything like that in the first place.

The Acting Chair: That was not a point of order, Mr Fletcher.

Councillor Lloyd, on behalf of the committee I would like to thank you for your presentation. Although there may be some disagreement on the best area to locate in Ontario, I am sure Collingwood will become second on most people's list.

Mr Lloyd: Thank you very much.

1030

UNITED FOOD AND COMMERCIAL WORKERS, LOCAL 1977

The Acting Chair: Our next presenter will be from the United Food and Commercial Workers. As you know, you will be given half an hour to give your presentation. You can either make a half-hour presentation or a short presentation and allow members from each caucus to ask questions. Would you please identify yourselves for Hansard and then proceed.

Mr Williamson: My name is Brian Williamson and I am president of United Food and Commercial Workers

Local 1977. I merely represent Zehrs employees. With me is Alan McLean, the business agent from our local union. Al also is a permanent resident of Collingwood.

Mr Sorbara: You represent what employees?

Mr Williamson: Zehrs markets. We are going to make a brief submission. Our union has made several submissions, will be making more submissions and we will try to answer your questions as best we can.

I work for Zehrs, which is a retail food store chain in southwestern Ontario. It is owned by Loblaw's Corp. I have worked there for 17 years full-time in the stores, and Al worked for 15 years in the stores. We can really only speak to the Zehrs and, as we see it, working with Zehrs.

We, the United Food and Commercial Workers Local 1977, are pleased to have this opportunity to appear before this committee to present our members' views on the issue of Sunday shopping and Sunday working.

Our local union represents over 3,900 employees of Zehrs supermarkets in 40 stores, as well as employees of one Valu-Mart and two Mr Grocer stores. These employees work and live in the following cities and towns in southern Ontario: Guelph, Kitchener-Waterloo, Cambridge, Elmira, Fergus, Caledonia, Ancaster, Brantford, Ingersoll, Strathroy, Goderich, Kincardine, Port Elgin, Owen Sound, Wasaga Beach, Wingham, Listowel, Orangeville, Bolton, Uxbridge, Alliston, Stratford, London, St Thomas and Orillia.

Prior to presenting our brief to this committee, we would like to express our complete support for the brief presented to this committee by our Canadian director, Clifford Evans, at Queen's Park on Monday, July 29, 1991. We have enclosed, at the conclusion of our presentation, a copy of Brother Evans's recommended amendments.

This is an extremely emotional issue and we must all look at this objectively and make recommendations that are going to benefit the many, as opposed to the very few selected businesses motivated by greed. We are very concerned and sympathetic to the businesses, both small and large, that have been hurt by the current recession and, contrary to popular belief, the labour movement and our union in particular are not opposed to companies earning a profit. After all, profits usually ensure job security and job creation.

That is why we must address this most important issue with a view to solving the problems by strengthening the legislation to prevent abuses in an effort to meet the government mandate of ensuring a common pause day for retail workers.

During the brief period between June 1990 and March 1991, when the Retail Business Holidays Act was struck down in the courts, there was no legislation regulating retail hours of business in the province, and many if not most food retailers opened for business on Sundays.

Fortunately, the employers in Local 1977 we have collective agreements with chose exclusively to remain closed, providing a common pause day, allowing their employees a day to be with their families. These employers, however, were considering having to open to protect their market share if legislation to provide for a common pause day was not legislated by the government.

There are too many myths surrounding this issue to be discussed in our presentation, but we wish to discuss the following. First, the creation of jobs: To dispel this myth, we should look at the Zehrs markets situation in the towns of Port Elgin and Kincardine. In Port Elgin, which is open under the tourist exemption provisions of the act—and I would add that Port Elgin and Wasaga Beach are the only two Zehrs locations that are open on Sundays—when they were opened in the late 1970s, from day one they were open July and August because they were exempted under the tourist exemption. Historically they have only been open those two months, and people hired there understood that they were going to work or may be required to work Saturdays and Sundays through the July-August period. Zehrs, to remain competitive, has been forced to open on Sundays throughout the summer months.

Kincardine, on the other hand, has chosen not to open on Sundays, although minutes down the road from Port Elgin. Comparing the two stores, Kincardine has been overall a more consistent and stronger store, employing more full- and part-time employees, which indicates there is no concrete proof that jobs are created or lost to Sunday openings or closings.

Second, is tourism enhanced by Sunday shopping? We must ask ourselves whether people are vacationing in the Orillia, Collingwood, Wasaga Beach, Huntsville or Muskoka regions of our province because they are allowed Sunday shopping.

Since the Retail Business Holidays Act's inception, we do not believe that people's ability to shop or not to shop on a Sunday has had any effect on the growth of tourism in cottage country. When responding to these and other questions, we believe the attached recommendations will help to ensure a common pause day for retail workers without hurting the economy of this province.

It should be understood clearly that our members do not want to work on Sundays, and failure to provide legislation that will adequately protect the principle of a common pause day will only result in forcing our members to work.

If I could take a second, it has been raised a number of times and it came up this morning about the increase in business by being open on Sundays. In the retail food industry, we found, and I believe the presenter from Canadian Tire yesterday stated that he found that his business shifted from Saturday and Monday and Tuesday to Sunday, and what he really did was spread his business over seven days as opposed to six. He brought figures to show that. We believe that is what will happen and what has happened in the retail food industry. They are not increasing their business, or they have not indicated they are. It is just a shift in the business.

I cannot speak for other industries, but speaking about the retail food industry, there are certain crafts in the industry such as meatcutters and bakers, and I think we have a tendency to think of the people who might be able to come in off the street and work on a Saturday or work on a Sunday. Cashiers and people can be fairly easily trained to do those tasks, but if you have meatcutters and bakers and people with certain skills that require a fair amount of time

and training, there is a limited number of those people who are hired for each store. It is almost impossible to go out on the street and find these people, so the stores are going to be in a position where they may not force these people to work on Sundays, but there is certainly going to be pressure there so the store can operate in full capacity providing meat and baked goods.

In discussing the work on Sundays, because of the shift in business, I do not believe employers, on the whole, try to force or intimidate employees to work on Sundays. People who are working 24 or 27 hours a week, if the business is lost on Fridays, Saturdays, Mondays and Tuesdays and shifts to a Sunday, to maintain their incomes are forced to work on Sundays voluntarily to maintain their livelihood. So it is not that the employer does, it is the fact that the customer has shifted his or her shopping habits. People are there to work when the customers are there, and the hours are there to follow the business, not the business there to follow the hours.

I think there is a pressure from the way the business is transacted, or shifting them. That is about all I have to say.

The Acting Chair: We have about seven minutes. Mr Poirier.

Mr Poirier: I can understand very well what you are saying, and personally I would also strongly support worker protection against abuses. I would also support their right to refuse Sunday work. If I remember, you have been with us most of the time, if not every day, in Toronto, listening to some of the presentations from just about everybody we have had so far. Am I not correct?

Mr Williamson: Correct.

Mr Poirier: I look at page 3, for example, at the top. It says, "This is an extremely emotional issue"—quite correct—"and we must all look at this objectively and make recommendations that are going to benefit the many, as opposed to a very few selected businesses that are motivated by greed."

That is a rather strong statement. You seem to put everybody, those who support the right to ask to work on a Sunday—you seem to lump them all in "a very few selected businesses that are motivated by greed." Maybe some are, I am not denying that, but you were there when you heard some of the small business owners and the not-so-small business owners saying they have lots of people who want to work on a Sunday, or themselves, or just their families to open their small business on a Sunday.

If I were the owner of a small tourist-type business here in Collingwood, for example—Blue Mountain Pottery, or whoever they are—I would be upset that you would label me as a selected business motivated by greed if I wanted to capture the Sunday tourists that come to Collingwood. How would you react to that?

Mr Williamson: I believe in our recommendations that follow this we are recommending that there be a 4,000-square-foot exemption, which we feel would help the small business people if we allow them to open on Sundays. We think the larger chains are trying to take the business away from the mom-and-pop operations, particularly in the retail food industry. Those are the people we

feel are going to suffer in the business world, and we think that is motivated by market sharing. Greed may be a strong word, but certainly profit motivated.

Mr Poirier: I am not saying some people may not be motivated by greed, but maybe you should reword this, with all due respect, so that those that are under 4,000 or 2,400 square feet—you seem to lump them in the statement here, which I do not think is what you are aiming at from your explanation. Correct?

Mr Williamson: Correct.

Mr Poirier: Therefore, some small business people might want to open and choose to work on Sunday, and not be necessarily motivated by greed.

Mr Williamson: Correct.

Mr Poirier: Thank you. I am glad you specified this for me, because I was surprised this is where you were coming from. I was a bit upset, but thank you for clarifying this.

1040

Mr Sorbara: I enjoyed hearing from the United Food and Commercial Workers again. I want to begin with the point you made about meat cutters and bakers. I think the point is well taken. In some food stores where there are bakery facilities and there is a fresh meat counter, you do need very competent people who understand more than simply stocking shelves or processing food at a cash register, although that work is sophisticated as well.

There are meat cutters and bakers who have to work on Sunday in restaurants and in banquet facilities. Should we be closing those down as well? What distinction do you make? Why should we be requiring those workers to work, and not permit the meat cutters and the bakers, who may even want to work in a Zehrs on Sunday, the opportunity?

Mr Williamson: I would really like to answer the question, but I am not aware of any banquet facilities or restaurants that have their own meat cutters or bakers.

Mr Sorbara: Let's take a chef, who is dealing with the meat after it is cut. Why should the chef have to work on Sunday and the meat cutter not?

Mr Williamson: I believe it is similar to baseball on Sundays. Families sometimes go out for Sunday brunch as a group. I think part of it is, when they go to work in that restaurant, they understand it is a seven-days-a-week operation.

I started working in the retail food industry as early as 1965. Back then, we worked Tuesday to Saturday. The hours have expanded. Some Zehrs stores are now open from 7 am to 11 pm on a six-days-a-week operation, so I think it has expanded, but clearly Sunday was a common day for retail workers, and I think if I were working in the restaurant industry or considering being a chef, I would understand that I would probably be required to work on a Sunday.

Mr Sorbara: Just a very few years ago in Ontario, those who were advocating the common day of pause were strongly advocating that no sports facilities be open, no cinemas be open, no recreational facilities be open, and in fact some were advocating that no restaurants be open.

Indeed, one could not order beverage alcohol. The bars certainly were not open.

Why is it that we should make such a special case for those businesses which would like to open and those workers who would like to work? Why should the state prohibit that in the way in which the government is attempting to do with this bill?

Mr Williamson: If I go back to a presentation I heard made in Cambridge a number of years ago by a fellow from the African Lion Safari, the chap who owned it said that if you allow the stores to open in Kitchener-Waterloo-Cambridge, it is going to absolutely be detrimental to him because he is not in the tourist industry; he is a tourist attraction.

Mr Sorbara: But should he be protected? Should the state protect him to make sure he does not lose business? Should we not create a society where people are free to make choices—free to join a trade union, not to join a trade union, free to open their business, not to open their business?

Mr McLean: If I could address the remarks you are making, that was the first time I had the opportunity to view that video on Collingwood, myself being a resident of this town for seven years and loving every day of it. I have three active boys who participate in all different types of sports, and last winter my oldest son was fortunate enough to be a provincial champion and a North American silver stick champion. I found it very interesting that they showed sporting events and things like that.

I would like to draw your attention to the fact that the home games for my son during the winter were Sundays. Being in the retail business for 15 years, Saturday was a day that I worked very often. The bulk of my sons' sporting events fall on Saturday and Sunday, tournaments, regular games and such as that.

If you are asking why we should protect those retail workers who are in that type of business, I think we have to look at the fact that when those people have gone into those jobs and taken the decision to make that their livelihood and to support their families through that, they did so knowing it was a six-day operation.

I believe it is paramount that the government protect that established common pause day for very many reasons. The comment was made that I could ski on Monday. If I want to ski with my children, I would much rather ski on Sunday when they are out of school than ski by myself on Monday, even though there is nobody on the hill.

Mr Sorbara: I am just trying to understand your argument. Are you saying because that is the way it used to be? It seems to me, as I remember the retail sector a few years ago, you would never see a store open beyond 6 o'clock except perhaps on Friday or Thursday night. Now in Metropolitan Toronto, most of the large shopping malls are open until 9:30 every evening. Some people went into that business on the basis that the stores would close at 6. Should we be prohibiting stores from opening beyond 6 o'clock? Where do you draw the line? Do you just say, "That's the way it was, so that's the way it always should be"? Should we be demanding that LOF Glass close on

Sundays so that those workers have the same rights as retail workers?

The Acting Chair: Could we have a quick answer to that question and then move on to the next caucus?

Mr McLean: In an industry like LOF, they do the same job every day. Obviously a certain machine is probably the same on a Monday as a Saturday. In the retail business it is completely different. Everything is geared and gauged to the amount of sales and the business that goes through that department. Being a produce manager, there is a tremendous difference in what went on in the operation on a Monday as compared to a Saturday.

Mr J. Wilson: Just a clarification here. You mentioned, for instance, Wasaga Beach, which is also in the area I represent. It has a very large IGA store which has always been open on Sunday to serve the tourists and local people. What are you really suggesting here? Would you allow exemptions for tourist areas for your stores, the large ones like the Zehrs stores, or do you want them closed right across the board? I am just not quite sure what you mean there.

Mr Williamson: We are suggesting that stores that are 4,000 feet or under be allowed to open on Sundays in the tourist areas and, over that, they be closed. Zehrs has indicated over the last couple of years that it would just as soon not be open in Wasaga Beach or Port Elgin, but because historically it has been open and the fact that the IGA and competition in Port Elgin are open, it is forced to stay open on Sundays. If they were closed, they would be much happier.

Mr Carr: What percentage of your membership is in food as opposed to retail? Is there a split?

Mr Williamson: They are all in retail food.

Mr Carr: One of the concerns I have is that in looking at the agendas, you have made representation in the other sectors; for example, the major retail stores have made presentations. But looking at the schedule, none of the major food retailers is making presentations on something that can fundamentally affect their business one way or the other. They are strangely silent. Do you have any thoughts as to why they have chosen not to make any sort of representation either pro or con?

Mr Williamson: I do not think I can speak on behalf of the major food retailers, Loblaw's, A & P. I think the comment made by Mr Agnew from the Bay yesterday was rather interesting and it may flow into the major food retailers' thinking. He said that if they had the same kind of legislation in Ontario as they do in Manitoba and Quebec, although they would not be happy—he has clearly stated that they would like to be open for business on Sunday—they could live with that, they could do business. I believe that possibly is where the major retail food chains are coming from: "If we're open, let's all be open; if we're closed, let's close it down and not create any unfair advantages."

We believe the retail food industry got involved in Sunday shopping and Sunday working because of the fact that the so-called drugstores, which were not really drugstores,

were selling products that traditionally have been grocery items, were in the business, and they felt their profits and their merchandise were being sold out from under them. They did not have a fair advantage and that is what has motivated them to get into it. I think they believe if that problem is resolved, then that clearly puts the battle back on an equal footing and they can do business in a six-days-a-week operation.

1050

Mr Carr: I see. We had people like the Bay who came in and said workers can be protected and so on. You obviously believe that in retail food they cannot be protected. It would have been nice to have some of those large and small retail food operations be able to come here and say, "This is the concern of the union." For all we know, they may support them, as you are saying. I just find it very strange that in an issue as important as this the retail food companies have chosen not to come.

I appreciate it, because I see the amount of effort you are going through, travelling with us, spending all this time going around the province, and the people who are affected—because their business will be affected, one way or the other—have chosen not to be there. I just found it a little bit strange and I was just wondering why. Maybe I can make some inquiries on my own about that.

Mr Williamson: It might help to ask them.

Mr McLean: Maybe they are just pleased with the presentations we are making and they are just happy with the way it is going.

Mr Carr: Maybe that is it. I hope so. Is there more time? Two minutes?

The other question I had relates to how you see it going, based on the present legislation. The feeling of some people is that with the tourist exemption being so large and this particular area being so important, many municipalities will in fact begin to open up, and that it will take a little bit longer but we will have Sunday shopping, including for all your workers. Is that the way you see it heading if the legislation stays the way it is? If not, why do you think it will not happen that way?

Mr McLean: I believe that is part of Cliff Evans's recommendations on tightening up some of the tourist criteria to make them not so broad as to allow, as you were saying, wide-open Sunday shopping eventually, because the way we interpret it, it would be just about impossible for a community not to declare itself exempt under these criteria. So we would like to see it as our recommendations say.

Mr Morrow: Thank you, brothers, for taking the time to come to talk to us. You seem to represent an awful lot of retail workers, 3,900 to be precise, in a large chunk of the province. Recent surveys say that over 70% of the Ontario public does not want to work on Sunday. Is this fairly consistent with your membership, or what are the figures?

Mr Williamson: We have ongoing regular membership meetings. We travel around the area where we represent people and hold quarterly meetings, information meetings, for our members. We concluded negotiations

last summer and it was a major issue, the fact that they wanted to be protected against having to work on Sunday. I do not think they were too confident that they were going to be protected under legislation, and they felt it was incumbent on us to try to go out and protect them against working on Sunday. Again, I say it was a major issue, so yes, I would believe that in our organization, with Zehrs, it is an even higher profile, possibly because of the company's decision to try to stay closed as long as it can and maintain a common pause day.

Mr Morrow: Will this legislation create any job loss at all?

Mr Williamson: No, not for Zehrs employees.

Mr Morrow: Is it not true that fewer people actually worked at, say, an A & P once they created wide-open Sunday shopping?

Mr Williamson: I really could not answer that. What we do know is that A & P laid off over 200 people just recently.

Mr Morrow: Would it not be better for local councils to determine the needs of their communities based on specific provincial criteria for, say, tourism?

Mr Williamson: I agree.

Mr Morrow: Thank you very much.

Mr O'Connor: I want to thank you for coming here. These hearings are a perfect part of the democratic process. We get to hear from worker representatives, council members representing the local residents, some business people, people from all different sectors. As a resident in this town when the shipyard closed—that was some time ago. Were you a resident at that time?

Mr McLean: Yes, I was.

Mr O'Connor: There were 1,800 jobs lost as a result of that, 1,000 in the shipyard and several others. You must have seen a terrific change in the town during that period.

Mr McLean: There was certainly a lowering of morale or a mood altering. I think a lot of it was reinforced by the way the media continued to play it up. It was impossible to turn on the local news or even the national news without some sort of reference being made to Collingwood, that it was on its last breath and so on and so forth. I personally still believe that Collingwood is a strong community and will continue to be that way and continue to grow, but there is no doubt there were some hardships that were experienced by quite a few local residents.

Mr O'Connor: In an area that has been devastated, a single-industry community like this being devastated by a large operator closing, do you think wide-open Sunday shopping would create jobs for those 1,800 who lost those good-quality, high-paying jobs?

Mr McLean: If I believed that, I would be in support of wide-open shopping. I have some very close personal friends who operate businesses in this town and the surrounding communities. If I believed for one minute that Sunday openings were going to be the cure-all to some of the economic problems we are experiencing here, I would definitely be in support of it, but I truly cannot see any

evidence of that. We only need to look at areas like British Columbia and Alberta where wide-open Sunday shopping has been the norm. They are still going through economic problems as far as cross-border shopping is concerned. There is a host of other issues. I think it would be unwise for us to try and confuse this and bring in all these things and figure that Sunday shopping somehow is going to cure the economic problems of Ontario.

Mr O'Connor: I have a couple of other points. I have two brothers who are meat cutters. One works on Sunday because the store is open Sunday. I know the quality of his family life does suffer because of that. He has split-up days. My other brother's store does not operate on Sunday. He has Sunday and one other day off in the week, so his family life is a little bit better. As a negotiator working trying to enrich the lives of your workers, do you feel this legislation will be enough to protect those workers? Do you think it should be stronger or do you feel there is no need to protect them, that all the retailers are concerned about their employees?

Mr McLean: I am not going to say that all retailers are not concerned, but I think we have to be very conscious that there are those retailers out there who would put pressure on individuals to work. It is paramount that we do have legislation that will protect these workers.

Mr O'Connor: We heard from one of the ministerial groups earlier that it has been advocating for some protection for workers too. I think if there is not that negotiated right that you have working for the collective workers, then we definitely need this legislation.

Mr McLean: Probably the best safeguard is to have the stores closed, with the exclusions of the tourist exemptions and the square footage. That is probably the best way that I would suggest we try to ensure they are not forced to be working on Sunday.

Mr O'Connor: Do you feel tourism is perhaps one of the catalysts that will help Collingwood come back?

Mr McLean: I was listening to some of the briefs that were made in Toronto as well, and I personally never had thought of Toronto as a tourist area, but to hear some of the numbers that were batted around as to 18 million visitors a year, I think in Toronto, Ontario and Canada, for that matter, tourism is a big part of it. I do not think we need to change our way of life just for the simple reason of trying to cater more to a tourist.

I believe that as a tourist I myself have never once booked a holiday or a vacation with only the intent of going shopping or changed from one location to another because one community was open or one was closed. If I go on a vacation, I go to enjoy what is there, and usually I do not have any trouble spending the money I am going to spend whether it is in six days or four days or whatever. So I believe we should still maintain the integrity of a common pause day.

The Acting Chair: Mr Williamson and Mr McLean, on behalf of the committee I would like to thank you for your presentation.

1100

COLLINGWOOD AND DISTRICT REAL ESTATE BOARD

The Acting Chair: The next presentation will come from the Collingwood and District Real Estate Board. I want to thank you for being here. As you know, our format is you will be given half an hour. You can use that in any way you want. You can either give a half-hour presentation or give a short presentation and allow members from each caucus to ask questions or make comments. Could you please identify yourself for Hansard and then proceed.

Ms Schulz: I am Margaret Schulz. I am president of the Collingwood and District Real Estate Board. I am representing 230 members of that board. First of all, I would like to welcome you to the four-seasons recreational capital of Ontario. I think we are known for that. We have been historically known for that.

The Collingwood board's objective is to give the best possible service to our clientele. Needless to say, that means we need to have our offices open on Sunday. We are a unique area in that we enjoy a small-town flavour. We have good community living but we also have a strong recreational weekend community which contributes to our lifestyle and our living. Mother Nature has blessed us with Blue Mountain, which provides skiing for us in the winter months. We have the Bruce Trail, we have excellent hiking facilities and we have Georgian Bay, which provides us with all the water sports we could possibly want. I do not know where else within a two-hour radius of Toronto you could find everything we have to offer.

Again, many people throughout Ontario enjoy everything we have to offer, that we enjoy on a day-to-day basis, primarily on weekends, because they too earn a living. Most of them work five to six days a week. The only opportunity they have to purchase recreational property is generally on a weekend. They work and they come up on Saturday or Sunday. It is a major decision for them. They do not make it in one day. They generally need to view properties over a given number of days and have time to sit down in the comfort of an office, not on the hood of a car, to make their decision. We realtors are there to provide the service to help them make that decision. I find it ludicrous that we are not allowed to open our doors on Sunday but have to sign a deal on the hood of a car, so to speak.

We also have a strong young community that lives here year round. There are often two wage earners in a family. They have young children who attend all sorts of sports and are involved in sports. Their weeks are very busy. Most of them just run from the beginning of the week to the end of the week. They do not have time, either, to look for their major purchase, which is the home. Generally we look after those people on the weekend and it does not take one day. Very often a deal is wrapped up on a Sunday. It takes a lot of counselling, a lot of time and most people are around on weekends. That is the time they have available. We may have a few short hours during the week, but generally the weekend days give us the largest block of time to service the clientele, whether they be recreational or year-round residents.

We need to survive. There are some real estate companies which deal primarily in recreational properties. They do not deal at all with residential. Their livelihood depends on the tourist, the weekender, the skier who wants to have accommodation of his own for the time he spends up here. If they were to close or if they were not able to be open on Sunday, I am afraid we would lose yet another two or three businesses, perhaps even more. We really need to have that time. We need to have the option to open. We are not asking that we have overall Sunday opening; we are asking that we have the option to open. I believe that also includes the retail stores. There are some who I think would not benefit from Sunday openings and there are others who would, but they should have the option to choose. In my opinion, this is what Canada is all about.

I believe that pretty well sums up what I wanted to say. I have not said it in the order that I planned, but nevertheless I hope my message has come across. There are some realtors in our community who choose not to work on Sunday. That is just fine. As you all probably know—no doubt you have all purchased property of some kind, rented or whatever—we are on call 24 hours a day. I do not have a problem with whether I work Sunday or not. I make sure I have time for my family. I put that time aside, but it is not always on a Sunday.

With that, I would like to thank you for giving me time to present our view to you. I hope you will seriously consider the option to open. We are a tourist area. Whether we are officially designated as that or not, we are a tourist area. We are also a good, healthy community where young families grow. We just need to be able to function whatever way we can. I think the option to open is the only way to go. Thank you.

The Acting Chair: We have eight minutes.

Mr Daigeler: Thank you for your presentation and, in particular, that you are making a presentation on behalf of a real estate group. When I read the bill, its implications, I of course realized the impact on the real estate industry and I thought for sure there was going to be a percentage from your business who were going to make presentations to us. As it turns out—and I have just reviewed the schedule—you are the only one from the real estate sector who, at least so far, is scheduled. I am just wondering why that is. Have you been contacted by anyone in particular to speak on behalf of the real estate sector generally or are you just coming on your own initiative? Do you have any kind of explanation as to why apparently nowhere else are the real estate people going to express their concern?

Ms Schulz: Mr Daigeler, I am very surprised to hear we are the only board that is making a presentation. We have regions. We are part of Region 6, which encompasses south to Orangeville and up to Huntsville. There are approximately seven or eight boards that are represented there. I think a lot of realtors were not aware that they were breaking a law by opening their door on Sunday. I was not. It was not until I was at a Region 6 meeting, where Parry Sound expressed its frustration. They were told to close. The OPP came and said, "We will fine you if you open." They came down very hard. This was back in

early spring. That was my first introduction to this issue. We feel very strongly about it in Collingwood.

We are professionals. We do not want to break any laws. We feel we have to be professional, we have to represent ourselves that way and we cannot do it if the law says, "You must not open your door on Sunday." So I feel very strongly about it. No doubt you can tell that. I do not know why other real estate boards are not representing themselves, except that perhaps they are not really aware. I have no answer for that. And no, no one did contact me directly. I was contacted by Lisa Freedman's secretary, I believe, to say would I like to, probably because I represented the board at council, where a bylaw has been passed that allows us now to be open Sundays until whatever happens with legislation. Then I guess we will go back to the drawing board.

Mr Sorbara: I congratulate the witness on coming here to make the point. If one looks simply at the definition of retail business, as amended by the bill that is before us, it may well be that soon in Ontario we are going to ask the OPP to start putting padlocks on real estate offices on Sundays because they are breaking the law.

Mr Fletcher: Come on, get serious.

Mr Sorbara: Well, first of all, they are not tourist establishments. I do not think any realtor could advertise itself as a tourist establishment, and the definition of a retail business is, "Retail business" means the selling or offering for sale of goods or services by retail." If there is any sort of service that can be construed as retail, it may well be—and this has happened in some communities—the allegation is that these real estate offices are retail businesses. That is going to become a problem.

We have heard from the Food and Commercial Workers that they want the stores to be closed so that their workers do not have to work. Would you, or would your members, like to see the government of Ontario prohibit the sale of real estate on Sunday so that real estate agents would not have to work on Sunday?

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Ms Schulz: I hardly think so, because we do a great percentage of our business on Sunday. I do not have the figures in front of me.

Mr Sorbara: But is it not the case that a contract signed on Sunday is not a legal contract?

Ms Schulz: No, that is not the case.

Mr Sorbara: It was the case, or was it not?

Ms Schulz: It was, but it is not now. No, a contract is legal and binding signed on a Sunday.

Mr Sorbara: But just a few years ago, it was the case. In order to promote a common pause day on Sunday, it was illegal to sign a contract to purchase a house on Sunday.

Ms Schulz: Yes, sir, I am aware of that.

Mr Sorbara: And the world changed a little bit, did it not?

Ms Schulz: Yes, it did.

Mr Sorbara: Now much of that activity is going on on Sunday. Why is that?

Ms Schulz: Well, for the reasons that I stated previously. I believe that families are busy, trying to create a good lifestyle; therefore, there are two wage earners in the family. They do not have the same kind of time during the week. Mom cannot go out during the day and look at houses and sift through them and say, "Okay, Dad, I've narrowed it down to three." She is busy working. She is trying to earn a living and keep her family going. I think that is probably the reason. We are just far busier than we were a few years ago.

Mr Sorbara: But the fact is that many of the sales agents representing those vendors are working women who get involved in that profession, knowing full well that it is going to involve some Sunday work. Is that not the case?

Ms Schulz: Yes, that is right.

Mr Sorbara: And when the law changed to allow you to sign a house sale agreement on a Sunday, was there any group that came before the Ontario government, or did you come before the Ontario government, to say that this would reduce the quality of life in the province of Ontario?

Ms Schulz: No, I did not. I do not believe I was selling real estate.

Mr Sorbara: Do you think it did reduce the quality of life in Ontario, to allow people to sell their homes on a Sunday?

Ms Schulz: No, I do not.

Mr Sorbara: Neither do I. Thank you.

The Acting Chair: I believe Mr Mills wants to clarify something, as parliamentary assistant to the minister.

Mr Mills: I think that before we go on with this discussion, it is very important to clarify some key information that you may not be aware of. I would ask at this time, Mr Chair, for Janet Scarfone, legal adviser from the Solicitor General's office, to cover the point that I want to make clear to you.

Ms Scarfone: With respect to real estate offices being allowed to open on holidays, it is the opinion of the Ministry of the Attorney General that while the matter is not free from doubt, the better view is that residential real estate offices are permitted to open on holidays for the purposes of offering services in connection with living accommodation, in accordance with clause 3(7)(b) of the Retail Business Holidays Act.

Ms Schulz: I see. I do not think that most of us in this community were aware of that. So in fact we were not breaking any laws when we were open?

Mr Daigeler: According to some lawyers.

The Acting Chair: Thank you for that clarification. Do you want to proceed now? Mr Carr.

Mr Carr: The question I would have, then, is where was the location you said the real estate offices were being charged?

Ms Schulz: Parry Sound. I do not know if any of them were actually charged, but they were warned that if they opened, they would be charged.

Mr Carr: So we have one opinion, and yet the reality is that something different is happening. Were you aware, in the Solicitor General's legal department, that people in Parry Sound were being threatened with closure?

Ms Scarfone: I am not aware of this particular instance.

Mr Carr: I will make a note to investigate that.

Ms Schulz: I would imagine that you will hear from the executive officer of the Parry Sound office, probably in North Bay. I was in contact with her—

The Acting Chair: Just one moment.

Mr Mills: Excuse me. We have a further point of clarification that Janet would like to make about charges, the latest news.

Ms Scarfone: A directive has gone out to police forces, basically indicating what I have just said to you.

Mr Mills: No charges.

Ms Schulz: When, may I ask?

Ms Scarfone: That has been delivered to all chiefs of police and the OPP commissioner.

Ms Schulz: May I ask when that came into effect, when that was delivered?

Ms Scarfone: I think it was very recently.

Ms Schulz: I am sure it must have been, because there was a time, probably six weeks or two months ago, that we were told by the police that they would be policing that Sunday. We were warned. I do not know that anyone was ever approached or anything else, so that must be a very recent release. That is good to hear.

Mr Daigeler: Mr Chairman, would it be possible to table this directive with the committee members?

The Acting Chair: I do not see any problem with that.

Mr J. Wilson: Yes, that is a good suggestion, to table it. Margaret, thank you very much for your presentation. You are absolutely right. A number of real estate agents and representatives have contacted me over the past few months; there is a lot of confusion out there. I did not know as a legislator what the answer was until right now, and I am still not sure that the ministry has taken the appropriate steps to clarify any ambiguity.

I would ask Mr Mills, as parliamentary assistant, would the minister, or would you undertake to ask the minister yourself, to come out with a ministerial statement clarifying the status of real estate agents and offices on Sundays under the proposed legislation?

Mr Fletcher: That will have to come from the Attorney General.

Mr J. Wilson: The Attorney General's legal opinion should be written down so that we all have it. I will leave it with the government, and I strongly suggest that you do it.

Mr Fletcher: It should also be directed to the police.

Mr Sorbara: Well, why should they have to work?

The Acting Chair: Thank you for the clarification. Can we proceed with the questioning now?

Mr J. Wilson: I am not terribly concerned that a number of real estate boards have not appeared before this committee, because I think all members will admit that representatives of the Ontario Real Estate Association have been around to see pretty well all of us a couple of months ago, and made it very very clear in the brief to members of the provincial Legislature what their position was on this, and that they wanted the ambiguity cleared up.

I do have a question though, Margaret, on your experience to date. Are Sundays your busiest days? How is the volume that day on showings and closings compared to other days of the week?

Ms Schulz: I work in a very small real estate office, and very often our door has been locked simply because I am out showing property. Saturday and Sunday, and then Monday, are usually the three busiest days I experience. Monday is the day you do all the paperwork and everything you have to do; your letters are written, copied and sent to solicitors, that sort of thing. But I do find, as far as showings are concerned, Saturday and Sunday are the greatest days for volume.

Mr J. Wilson: When you had the door locked, did you have any complaints from people that they did not know you were open on a Sunday?

Ms Schulz: No, we have not, Jim. Could I make a suggestion? When this is clarified, could you release it to the press and ask them to do a headline for us? You know this has raised such a red flag with the public that we need to have a positive statement.

Mr J. Wilson: That is why a ministerial statement is usually the best type of statement.

The Acting Chair: One other point I would like to make is that there is a package of written briefs from people from the real estate board. You will be the only ones doing a presentation but there are written briefs, so you are not alone.

Ms Schulz: I am here, though.

Mr Carr: I would like to thank you for your presentation. Some of the discussions that have come up have been around how to protect workers on Sunday. In your industry most people have got into it because they presumably knew they were going to work on Sunday, but there could be somebody who says, "I would like a career in real estate but for religious reasons or whatever, I do not want to work on Sunday."

I realize that your operation is fairly small, but do you know of any agents who do not work on Sunday, who say, for whatever reason, "I want to spend time with the family," and who take that day off and only work the other days?

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Ms Schulz: Yes, I do know several that do that. We do come into this industry with our eyes wide open and it is up to us whether we want to provide service on a seven-day basis or whether we want to provide service on a six-day basis. It is a very individual decision, and from my

own experience I do not know a broker who does not respect that.

Mr Carr: So there are some who—

Ms Schulz: Yes. There is a broker out in Meaford who does not work on Sunday and does not believe in it, but he allows the realtors in his office to make the decision as to whether they want to open or not.

Mr Morrow: I am really glad we cleared up that exemption problem. I also understand that the Attorney General sent letters to the police boards, the chiefs of police and the real estate board just days ago. Actually, they were faxed just a few days ago and the real estate boards were asked to fax them to all their agents and brokers.

You talked about strong young families. My own family is a two-wage-earner family. I have very small children. My daughter is four and my son is 19 months old. We basically use Sundays for our family time and we feel very strongly about that. I think you also said that wide-open Sunday shopping created a better family atmosphere. I view that as just the opposite, actually. Do you have any comments on that?

Ms Schulz: I do not remember saying that. I think my statement was that there should be an option to choose. I really do not have an opinion on wide-open shopping. My feeling personally is that we should have the option to choose, and if families choose not to shop on Sundays, if they want that day for themselves, it is their right to make that decision. Just because the store is open, they do not have to go in.

Mr Fletcher: Thank you for your presentation. I sympathize with you. I hate signing deals on the tops of cars, especially in a used car dealership. That is the worst place.

As for shopping on Sunday, if I were an employee of A & P and they wanted me to work Sundays, should I also have the right to say no?

Ms Schulz: Yes, in my opinion.

Mr Fletcher: The right to refuse to work on Sunday and the right to say yes to Sunday working is part of the bill we are proposing. You see no problem with that?

Ms Schulz: No. I feel very strongly that we should have the right to choose.

Mr Wessenger: Just to clarify a point, I agree with the comments made with respect to the fact that under the existing Retail Business Holidays Act, real estate offices have the right to open on Sunday. In view of the fact that that has not changed under our present legislation, I assume we could take your presentation to mean that you do not want us to change that exemption, is that correct?

Ms Schulz: That is absolutely correct.

Mr Wessenger: You obviously believe in a common pause day, is that correct?

Ms Schulz: Yes, I do.

Mr Wessenger: You would like to see legislation that would ensure that families have the right to a common pause day.

Ms Schulz: That is right.

Mr O'Connor: There are just a couple of things I would like to touch on. You talked about the change in times and the need for two incomes for a family to survive. Do you feel that some part-time jobs could be created and that creating more part-time jobs would help real estate sales in Collingwood, or do you think perhaps two full-time incomes are needed to be able to secure the financing to buy a house?

Ms Schulz: In most cases, the two jobs are necessary. We are not on a high pay scale in our area, with the exception of a few companies. I think there are some families who probably could survive with one full-time wage earner and a part-time. Again, real estate companies employ part-time people. There are some people who can get by with working several evenings or a weekend day.

Mr O'Connor: Not too many part-time workers could afford to buy a house, then.

Ms Schulz: No. I think we were very lucky when I was raising my children that we still were able to stay home with our children.

Mr O'Connor: Times have changed. Thank you very much.

The Acting Chair: Mr Sorbara, you would like to clarify something?

Mr Sorbara: I have a question to Mr Mills, representing the government and the bill, just on the matters we discussed relating to real estate offices. My question is simply this: Why is it that the government is now being expansive on the question of real estate offices? Surely if the overall policy objective of the government is to be restrictive and only allow tourist establishments to open on Sunday, and you could argue that some shopping is leisure, surely the purchase of a house is not a leisure activity. There should not be special preference given to retail workers over real estate agents. So why is the government being expansive? Why not clamp down and require that real estate offices be closed and prohibit the sale of houses on Sunday?

The Acting Chair: You can choose to answer that if you will, but it does not directly have any bearing on the bill. If you want to clarify it, you can.

Mr Mills: In a general sense, the Attorney General looked at this and decided, and I am not privy to how that decision was arrived at at this time. Hopefully, we as a committee will at a later date be privy to how that decision was arrived at. I think it relates somewhat to the decision that it is living accommodation that is being offered on the market. It is very difficult for me—

Mr Sorbara: I guess my point is, why is that okay to sell on Sunday and why is it okay for real estate agents to work on Sunday but not retail workers? My problem is with the distinction.

Mr Mills: I have a daughter-in-law who is in real estate, and she tells me that she does not consider herself as a retail worker, but rather a private entrepreneur in business for herself, and she does not mind working on Sundays because she realizes that is the time to contact people. You have put me on a difficult spot. I do not know that—

Interjections.

Mr Mills: No, no, I realize that. I am trying to say that the rationale behind this decision is strictly with the Attorney General, and hopefully we will get to discuss that later. I would like to leave it at that.

The Acting Chair: Ms Schulz, on behalf of the committee, I would like to thank you for your presentation.

Ms Schulz: Thank you very much for giving me the opportunity to appear before you. I have enjoyed it.

1130

GEORGIAN TRIANGLE ECONOMIC DEVELOPMENT INSTITUTE

The Acting Chair: Our next presenter will be from the Georgian Triangle Economic Development Institute. Thank you for being here today. Our format is that you will be given half an hour for your presentation. You can either make a half-hour presentation or you can make a shorter presentation and allow members from each caucus to offer their questions and comments. Could you please identify yourself and then proceed.

Mr Rohmer: My name is Richard Rohmer. I am a Collingwood resident and I practise law here and elsewhere. I am a member of and appear today on behalf of the Georgian Triangle Economic Development Institute, which I may refer to as the institute or the Georgian Triangle institute.

The purposes of the institute, which is not incorporated, are as follows: the enhancement and preservation of the social and economic prosperity and wellbeing of the businesses, institutions and citizenry of the Georgian Triangle area. In particular, our purposes deal with the enhancement and the preservation of employment opportunities in the area and the effective planning, development and processing of housing, recreational, commercial and industrial projects within the Georgian Triangle.

I have attached to the brief as appendix A a map showing what the Georgian Triangle is, how it is constituted, the municipalities that are involved in it. The municipalities can be seen from the map. There are 13 of them: the village of Creemore; the towns of Collingwood, Meaford, Stayner, Thornbury, Wasaga Beach; and the townships of Collingwood, Flos, Melancthon, Mulmur, Nottawasaga, Osprey and Sunnidale.

The current membership of the institute is shown in appendix B. You can see from that that our membership includes professional persons, business people, companies engaged in construction and development and others interested and involved in the preservation and maintenance of the prosperity that this area has enjoyed and in the recovery and restoration of job opportunities that have disappeared here in large numbers over the last seven years.

From the scope of our membership and the large geographic area covered by the Georgian Triangle, it can be seen that the interest of the institute embraces six municipalities in which tourism is an essential and major component in their respective economies and in job creation. Those are the municipalities that have frontage on Georgian Bay and those that also have skiing facilities. They are the tourism municipalities: Collingwood, Collingwood

township, Meaford, Nottawasaga township, Thornbury and Wasaga Beach.

The Georgian Triangle Economic Development Institute appears before you today in support of the general principles of Bill 115 because the bill provides a mechanism that will continue to permit retail business establishments to be open on holidays, and in particular on Sunday, for the maintenance and development of tourism.

With the departure of manufacturing jobs from this area on a massive scale, even in the pre-recession days, the dependency upon tourism and recreation here is enormous, which is one of the strong reasons the institute supports Bill 115.

The mechanism provided by Bill 115 can be characterized as cumbersome. Like all provincial legislation that passes jurisdiction and power down to the local municipalities, the mechanism invites abuses by members of local councils who are biased either against Sunday shopping or for it. It invites municipal elections to be fought by pro or con Sunday shopping factions. It invites fights over which retail business establishments in which areas of a municipality might be permitted to open on holidays, including Sunday. And when all is said and done, Bill 115 declares in subsection 4(8) that the council's decision is final, which of course is simply not true, because an aggrieved applicant who has been rejected by the council can go to the courts for justice on a point of law.

Then there is the question of enforcement of Bill 115 and the proposed regulations made under it. By enforcement I mean not only by the local municipal councils in regard to all retail business establishments within its boundaries, but also the enforcement by the government of Ontario against all local or other municipalities that purport to pass bylaws to permit retail business establishments to be open on holidays for the maintenance or development of tourism.

On the face of it, Bill 115 not only invites but requires the government of Ontario in general, and the Solicitor General in particular, to set up at Queen's Park a new bureaucracy that could be called the Big Brother Sunday Shopping Enforcement Agency employing hundreds of new civil servants.

On the other hand, the Georgian Triangle institute will be the first to encourage the government to locate the headquarters of that enforcement agency right here in the Georgian Triangle, in this most attractive area in Ontario in which to live, with its year-round recreational, cultural and virtually no-need-to-commute-anywhere environment.

If there is a major defect in the bill, it is the erection of a bureaucracy to enforce its provisions.

The problem of enforcement can be demonstrated in this way: Subsection 4(1) says the council of a municipality may by bylaw permit retail business establishments in the municipality to be open on holidays. So far, so good, but then these words appear, "for the maintenance and development of tourism."

Assuming we have a definition of tourism, what do the words "maintenance or development" mean? And who is to say what they mean, somebody in the Solicitor

General's office or somebody at the municipal council level?

Then we pass on to proposed regulations to be made or amended by the stroke of the next Lieutenant Governor's pen.

By subsection 1(2) retail business establishments in a geographic area may be exempted if the area has characteristics which fall under two or more of the six categories that are referred to in subsection 1(1) of the regulations as tourism criteria. The six are: the area has historical or natural attractions; the area has cultural or ethnic attractions; the area provides a concentration of hospitality services; the area provides for shopping activities which feature a unified concept or theme—whatever that means, farmers' markets—we know what that means, the sale of heritage or handicraft items, and so forth; the area provides an access to hiking and boating; and fairs and festivals.

If the municipality believes it has two or more of the six categories but the enforcement agency says it has only one or none, then what?

Subsection 1(1) of the proposed regulations says, "This section sets out the tourism criteria that must be met before a municipality may pass an exempting bylaw under subsection 4(1) of the act."

The tourism criteria must be met. Otherwise the municipality cannot pass such a bylaw, which means that if it does pass such a bylaw, the bylaw is null and void and of no effect. But who is going to declare it null and void? Right now it could only be the courts under the way the bill is structured. And who could apply to the court for an order declaring such a bylaw null and void? The Solicitor General, on the advice of his enforcement agency, or an interested citizen, association or corporation.

There is one simple solution that might overcome the mechanical problems I have outlined. It might not prevent the erection of the enforcement agency, although that agency could be comprised of one person and a secretary if this suggestion is accepted.

It is suggested respectfully, and with all due deference to the civil servants at Queen's Park who drafted Bill 115, that there be an appeal permitted to the Ontario Municipal Board in regard to all decisions made under Bill 115 and the regulations made thereunder.

Before I conclude, there is an ancillary point I would like to draw to the attention of the members of this influential committee. I have already made passing reference to it, but for the purposes of the record I wish to briefly enlarge on it.

The urbanizing recreational and cultural sector of the Georgian Triangle fronts on Georgian Bay, Nottawasaga Bay, and is backed up by the most important skiing complexes in Ontario. With its four-season recreational opportunities—skiing, skating, winter sports, golf; all the things you saw in that excellent video—this area is without question the most attractive area in Ontario in which to live, work, play, retire or raise a family. Some committee members may not agree with that assessment, but that is the way we see it. In comparison to Metro Toronto and the greater Toronto area, this sector of the Georgian Triangle is the Utopia of Ontario, the way we see it.

The institute therefore supports the proposition that the government of Ontario should direct those of its ministries that are computer or electronically oriented in their administration to look closely at moving their computer operation cells out of Metro Toronto into this superb living area, rather than forcing people to go into the bowels of the city. The institute will be preparing and mounting a campaign to sell this proposition to the headquarters of the big banks, insurance and other financial institutions in Metro Toronto and the greater Toronto area, and the big oil companies and credit card operators, just to name a few. We want them to pick up their computer operations and move them here. Tax incentives to get them out of tumultuous Toronto would be of great assistance.

However, the institute has no plans to try to move the provincial Legislature up here. We would not be able to cope with the chaos.

The businesses, the economy and the workers of the Georgian Triangle need all the help they can get to survive, to beat the recession and to overcome the massive manufacturing and building construction job losses that have occurred here. For these reasons, the institute supports the principles of Bill 115 and the proposed regulations, with our recommendations for their improvement, all of which is respectfully submitted.

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The Acting Chair: That leaves us each about seven minutes.

Mr Sorbara: I want to begin by making a brief reference to the second paragraph on page 3 of Mr Rohmer's submission, where he refers to "the next Lieutenant Governor's pen." You should know that if the incumbent Prime Minister is doing a realistic search for a new Lieutenant Governor, the pen the witness refers to is being held by an appropriate candidate. I am wondering whether our witness has been contacted by the Prime Minister to determine whether he is interested in the job, because certainly, if we are looking for eminent Canadians, our witness this morning qualifies as one.

Mr Rohmer: That was a very liberal and generous statement. On the advice of counsel, I choose not to answer that question.

Mr Sorbara: I note that the witness also is continuing to use the initials QC after his name. That continues to be lawful notwithstanding the best efforts of the former Attorney General.

I note as well the reference to the creation of the BBSS Enforcement Agency. I wonder whether the witness is suggesting that this bill gives rise to BS squared on behalf of the new government of Ontario.

Mr Rohmer: On the advice of counsel, if I could change the question, the question really deserves this kind of response. I think the point we have tried to make here is a valid one that there is a vacuum in relation to this issue: If the government of Ontario takes one interpretation and a council takes another interpretation, who is going to adjudicate between them? Second, who is to adjudicate between municipal council and the people in business who are making application?

I am simply saying that in all fairness there should be some means of appeal that leaves the element of independence to whatever extent the OMB can give it. I know that I put my finger on an area of some concern there, but there should be some mechanism, otherwise there will have to be constructed a bureaucracy to ensure that the enforcement from the provincial government level is undertaken.

Mr Sorbara: I think the point here is an important and valid one. Certainly, if we are only going to be allowed to make minor amendments to the bill, an appeal to the OMB is entirely appropriate, as Mr Rohmer suggests, because it is the body of the province most suited to handle those sorts of issues.

Notwithstanding that the institute has chosen to support in general principle the thrust of Bill 115, I would like to know whether the institute would be aggrieved or upset if the government in its wisdom simply determined to repeal the existing Bill 114 and allow Sunday shopping hours to be set in the very same way that shopping hours are set on every other day, that is, by determination of the municipal council under the Municipal Act.

The reason I suggest that is that some of the businesses that would open in Collingwood under a tourist exemption under Bill 115 compete on a daily basis with the shopping mall that is just on the outskirts of Barrie, which is fighting for the retail dollar. Under this bill, as I interpret it, probably that shopping mall would not constitute a tourist facility; it is over 7,500 square feet and would not be allowed to open.

I suggest to our witness that in my view that represents unfair competition. Would the government not be better advised simply to recede from this territory and use its scarce resources to do something else other than to set up new agencies and try to pick the winners and losers in the Sunday shopping battle?

Mr Rohmer: That is an excellent question. I will answer the first part of it. I have taken a consensus of the members of the institute. The answer to the question would be that they would not be aggrieved.

Mr Sorbara: They would not be aggrieved; good answer.

Mr Poirier: If this were not as much of a tourist area, do you think your institute would still have the same feeling about this problem of designation? Obviously, if you were not touristic you would not have the same freedom this bill would provide for you to decide what you want to do with your Sunday businesses. Is this correct?

Mr Rohmer: The question is a hypothetical one; therefore, I must answer it on a hypothetical basis. If this area were not touristic, this area would be in total collapse at the moment. With the departure of the 1,800 jobs in the last seven years out of Collingwood alone, quite apart from the other constituent municipalities, without the tourism and all of the abilities we are talking about here to Sunday openings, in a way this area would be in a disaster.

I do not know whether I have answered your question, but in any event tourism is at the heart of the representation here.

Mr Poirier: And you need to have these businesses open on a Sunday to make sure that your tourism sector, which is a key element to your economic survival, remains intact.

Mr Rohmer: That is exactly correct. The jobs are provided and made available to people who desperately need them.

Mr Poirier: Fair enough. I will just take 30 seconds to a final note. I really liked the way you made that very important point about who decides what, if at all possible, with tongue in cheek and humour. On page 3 there is a statement that if you were a politician you would really be in deep trouble for having said so. You were saying that BS squared, as my friend called it, agency can comprise one person and a secretary. From what I know of the English language, this seems to be a mutually exclusive definition of a person. If this were a secretarial appreciation week or day, we might have a hard time trying to reach you or secretaries; so with tongue in cheek I return this comment to you.

Mr Rohmer: Well, I have replaced the tongue in my cheek. If you look carefully at the wording, you will see that I have selected it carefully, having regard for all of the flags you are trying to raise. First of all, I am not a politician, although I have been fringed with it.

I did indeed sit on the council of a municipality which was then called the township of North York. That can take you back a long way. We did dramatic things in the township of North York in those days, and I will not give you the years.

In any event, when I speak of being composed of one person and a secretary, a secretary can be a person. On top of that, a person can be male or female and a secretary can be male or female, so I did not discriminate, even in the context of the government's policy, which is quite discriminatory hiring policy today. I did not want to raise that, but since you did—you raised it.

Mr J. Wilson: Thank you, General Rohmer, for appearing this morning and honouring us with your presence. In addition to pointing out what Mr Sorbara let out of the bag, that we could very well have the next Lieutenant Governor addressing us this morning here, I should point out to committee members that General Rohmer is a recipient of the Order of Canada. We are very proud of him in this area. He received that for his good works and intellectual abilities, which we have seen demonstrated this morning.

General Rohmer, in your heart of hearts do you think this legislation will work? I will just do what most politicians do and preface that by saying it seems to me it is going to create a snowball effect, just to set the stage.

Mr Rohmer: In my opinion, if the legislation is amended, certainly along the lines I have suggested in the brief, it can work, but there has to be some sort of body to which an appeal can be made. I think it will put an onus on the municipalities, which the municipalities probably do not want. They do not want to be in a quasi-judicial position vis-à-vis their own constituents in their own towns. They would probably prefer not to have that, but I think most of the municipalities and councillors I know could do the job.

But it is a cumbersome piece of legislation. I have said that and I think it can be made to work if it is changed.

1150

Mr J. Wilson: I think back to the period last year where we had several months of unregulated Sunday shopping. In this area we had some stores open and some not. In parts of the riding we had entire areas not open. In the riding we have Cookstown. That has always been open, for instance; Wasaga Beach has often been open.

Did your group give any consideration to what the experience was during that unregulated period? Is this an area where perhaps the government should be legislating? Although you are a lawyer, this legislation may very well turn out to be a field day for lawyers, in my opinion.

Mr Rohmer: I cannot say we turned our minds to the very question you have raised. For example, here in Collingwood, where the town of Collingwood has passed a recent bylaw in relation to Sunday shopping, opening it, as I can see that certainly reflects on a unanimous basis the views of the people of the town in relation to the need to have this facility available on Sundays.

Also, when you have a situation where Thornbury is open and Wasaga Beach is open, there is the need to have some generality and universality from the competitive point of view. I do not know that I have answered your question, but I think that by and large the Sunday situation could be taken care of by eliminating all the restrictions. If it is going to go, it would really have to come along, the kind of legislation we are looking at, but repair the major holes in it.

Mr J. Wilson: Just from the map of the Georgian Triangle, do you envision that most of the municipalities, the larger ones in the service area, will be open?

Mr Rohmer: I would think so. That is Meaford, Thornbury, Collingwood township, which is a very important sector, and the town of Collingwood, Wasaga Beach, Nottawasaga and Stayner. I think they would be hard pressed not to adopt the legislation and go for the bylaws that are provided for.

Mr J. Wilson: On the surface your suggestion of the right to appeal to the OMB is a good one, but I find that in dealing with constituents who must now go before the OMB, they find it a very intimidating board, often requiring legal assistance because the Municipal Act itself is quite complicated. The way the OMB is structured now, in your experience with it, is it accessible and friendly enough, user-friendly, as they say?

Mr Rohmer: It is user-friendly. The people on it are first-class; it has nothing to do with any political side of things. They are hard pressed in terms of handling all the business in front of them. The number of acts they have to deal with is in the range of 50 to 60, and then they cannot get them all counted. It is an overworked organization, and it is formal. The problem with this kind of forum, where you have adversarial activity between this party and that party, is that it is a place where they do give as much comfort as they can, but because it is adversarial it is a place where most of the time you really do have to have a lawyer with you to take your case. Certainly in this instance I think

applicants could go to the OMB without a lawyer, but by and large, probably in nine cases out of 10, they would have a lawyer to handle the matter for them. It is the same thing in the courts. But what I am really saying here is that there should be some mechanism of appeal. There may be some better way than the OMB, but at the moment I would be hard pressed to provide one for you.

Mr Carr: My question is regarding the interpretation of the tourism exemption. Notwithstanding the fact that municipalities may be biased one way or the other, but from a strictly legal standpoint, do you see any part of the province of Ontario that could not meet the tourism criteria as they are laid out in this paper?

Mr Rohmer: My judgement would be yes, there will be many places that would not meet the six tourism tests.

Mr Carr: What would be the one that would hold it up? Is there any particular one of the criteria?

Mr Rohmer: I had not addressed that question, but any one of them could be a block or a bar because they do not exist within a particular municipality or a particular area. You could undoubtedly find any number of areas where five or six would not be present.

Mr Carr: You know they do not have to meet them all.

Mr Rohmer: I know. They have to meet two. Again, as I say, if the municipality thinks it meets two and somebody at the provincial level thinks it does not, then who is going to make the decision on the point?

Mr O'Connor: I want to thank you for coming today. It has been terrific here in Collingwood to see such terrific support coming from so many different groups here. I think one of the things that stands out, though, is the sense of community and the community sticking together and trying to make sure the community survives.

You have pointed to tourism aspect as one aspect of the town's survival. I think perhaps in the video that was shown earlier they also stressed the need for high-technology, value added jobs to enhance the economy of the area. Could you expand on that a little bit?

Mr Rohmer: Yes, I think there is a general realization in the town and the area that the manufacturing jobs that have disappeared will not return. You could take the shipyard by itself, but there are many others—for example, those that have been automobile-oriented, parts and things of this kind—where the prospect of industry coming back here for manufacturing is remote, to say the least.

What we are looking at is what the video talks about and what I did in my brief, and that is, what have we got to sell and to whom do we have to sell it? We have the lifestyle here, and we have the organizations in the greater Toronto area to whom we can go and say: "You can move, for example, your high-tech or your computer units up here. The place is open, we have the residential aspect ready, we have the training aspect." It is a great place to live and it is something we think we can sell them, but it will be a hard sell. That fundamentally, apart from tourism, is the way I think the community is looking at its future in terms of jobs.

Mr O'Connor: So the tourism aspect, then, of the economy would not necessarily be the opening of the large chain stores; it would be more the interesting ones and the service aspect of it?

Mr Rohmer: The stores that are here, the businesses that are here, are the ones that are going to be open.

Mr O'Connor: One area that you have talked about, and we have mentioned it quite a few times now in our discussions, is the appeal process. I would just like to give you a message, because this committee process, in going to the communities to try to get some—it seems to have been brought up quite a few times and I just wanted to reassure you that we are open and listening to suggestions brought forward. In fact, your suggestion has been made several times over. The UFCW, I believe, made it, though I think they called it something different than the humorous little anecdote you put in there. I think you called it a tourist exemption board, if I am not mistaken. That suggestion has been put forward and we appreciate that.

Mr Morrow: I would like to thank you very much for presenting this morning. You raised a really good point about the OMB. We have done a lot of consulting and have found through talking to various groups that they also agree with you, but they have been looking at maybe a different level of the OMB because, as we all know, to get something through the OMB can take years, and sometimes megayears, to resolve that. Possibly, if we can split that up, and I am not talking about—I know we would create more bureaucracy, but we might be able to do something there. Thank you very much for your suggestions.

Something was raised this morning, which I just thought I would ask you about, by the town of Collingwood. They said that under their new bylaws 35% to 40% of all businesses are open. To me, that would mean that 60% chose not to open. Can you possibly tell me what kind of businesses opened and what kind of businesses did not open, just for my own clarification?

Mr Rohmer: I cannot on the broad base because I did not go and inspect the situation, but since you have asked, Johnsons Home Centre was open. They have building materials and things of this kind. In the Wednesday, July 31 Collingwood Enterprise-Bulletin, on page 10B they have put in an ad which says: "Sunday shopping creates new jobs. Johnsons Home Centre, the people who care, are looking for new sales staff. Order desk sales with experience in building materials, flooring department, etc, and all individuals must be prepared to work on Sundays." There were also shops that sell ladies' dresses and things of that kind, but I cannot tell you from my own direct experience and I would not do this on a hearsay basis. That is the kind of shop that was open last Sunday.

Mr Morrow: I also want to thank you very much for your support.

The Acting Chair: Mr Mills, you have about a minute and a half.

Mr Mills: Thank you, sir, for coming here. I have listened. As you probably know, the regulations are draft regulations and I am here along with my colleagues to

listen. I have heard with interest your thoughts on the appeal process. They are noted.

I would just like to talk for a second or two about your paragraph 3 on page 2: "The mechanism invites abuses by members of local councils who are biased either against Sunday shopping or for it." I would just like to draw your attention, sir, to part I of the bill. It establishes the principle that retail business holidays are common pause days and that municipalities should not use their exemption powers to permit retail business establishments to open on holidays except to maintain or develop tourism. I think councillors really have to adhere to the principles of the bill. With that, I will give my colleague from this area a minute to close off.

Mr Wessenger: First, do you feel the tourism exemption provides a competitive advantage for tourism areas?

Mr Rohmer: I do not really know what you mean by competitive advantage.

Mr Wessenger: An economic stimulus.

Mr Rohmer: An economic stimulus? Oh, yes. A competitive advantage against some other area, I could not say.

Mr Wessenger: But certainly an economic stimulus.

Mr Rohmer: Yes.

Mr Wessenger: Second, as a former administrative lawyer are you recommending some administrative tribunal as distinct from the courts?

Mr Rohmer: Yes.

Mr Wessenger: Or the OMB, yes.

Mr Rohmer: A division of the OMB. Probably that is what the government might be thinking about, putting the OMB into different divisions and increasing its population.

Mr Wessenger: Fine.

The Acting Chair: Mr Rohmer, on behalf of the committee I would like to thank you for your presentation.

The committee recessed at 1203.

AFTERNOON SITTING

The committee resumed at 1310.

The Acting Chair (Mr Cooper): I would like to call this meeting back to order.

SALLY STONE BOUTIQUE

The Acting Chair: Could we call on our first presenter? It will be someone from Sally Stone Boutique. I would like to thank you for coming today. You will be allowed 15 minutes. You can use that 15 minutes to make either a 15-minute presentation or a shorter presentation and then allow for questioning and comments from each of the caucuses. Please identify yourself and then proceed.

Ms Stone: First of all, I would like to thank the Chair for giving me this opportunity of speaking today.

My name is Sally Stone. I am the owner-operator of a retail store in the town of Collingwood, Sally Stone Boutique. I have almost 40 years' experience in the retail business and for 18 years owned and operated the Duchess of Westbury in the Westbury Hotel in Toronto.

I was asked to speak today because recently I made a presentation to our local council on behalf of over 100 merchants seeking the right to be open Sundays and the clear designation as a tourist area. It should be noted that if I had spent a little more time gathering signatures there would probably have been another 200 merchants. The content of my presentation was as follows.

Although the present economic crisis presents our town with many significant concerns and problems, it also provides us with a challenge and an opportunity.

People in this town are hurting. Our business base is hurting, and we the merchants are hurting. Whatever can be accomplished by our deputy commissioner—and we know we need his efforts and focus—will primarily affect the future, not today.

As merchants, our survival depends on utilizing every possible means to ensure we maximize the buying potential in this town. The attitude of passively accepting what comes our way and what is convenient will not position us for survival or growth. We have to fight for every available dollar, as does every town, province, country, store, church, school and individual. Not only do we individually have to fight, but we need all the available expertise and creativity in this town helping to fight. We need organizations such as our chamber of commerce, the BIA and members of our town council all focused on the fight. We need the synergy created by a common purpose and working together.

The greatest challenge before us is change. Change is the one thing we are not educated to deal with. Individuals, companies, groups, etc all have tremendous difficulty dealing with it. In order to fight the effects of change, we need strong and co-ordinated leadership.

What worked 10 years ago will not work today. Our town has changed. We are no longer a small town with common values, purpose and understanding of the way it has always been. We are a community made up of three major segments: full-time residents, weekend residents

and tourists, each an important part of the whole. Each contributes to the survival and the health of our town. Each deserves to be recognized for that contribution.

How many hotels, motels, restaurants, golf courses, sports stores and ski facilities would we need to serve just the full-time residents? Without the tax base and the buying power provided by the weekenders and tourists, could 12,000 residents support the fine school facilities we enjoy, the fine library and the excellent hospital, the museum, the Leisure Time Club for seniors and the quality of health and welfare services provided in this town? It is doubtful, and particularly now with the loss of industry and jobs we would all be much more seriously affected.

Many small towns experiencing similar economic problems to ours would give their eye-teeth to have this exceptional revenue source and the bonus of a significant tourist trade. Weekenders are just that. They are here for two days a week. Tourists, likewise, are often here for one to two days. Under the present ruling of no Sunday shopping we are in effect cutting their potential buying time and dollars by 50%. Although we are designated by the Ontario government as a four-season tourist area, we appear not to be set up to either service that market or capture the available dollars brought into our town. Quite frankly, we cannot afford to sit back and watch those dollars leave our town. We cannot believe the council can afford to sit back either.

When you visit Niagara-on-the-Lake, from the moment you arrive by boat, car, bus or foot, you know the town wants you there. Every shop is ready for you. Restaurants are geared to handle the theatre crowd. The town is dressed for entertaining with flowers, beautiful parks and an attitude of service. You enjoy spending your money.

In today's world, if a community is not progressing, it is regressing. It is never static. If we do not gear up to provide a positive atmosphere for our weekenders and tourists, we will ultimately lose and everybody will suffer.

Closing this town down, even for one day, will have a domino effect which could cost us the bright future that is our potential. Even the few shops and restaurants that are still open feel the effect: no traffic, no buyers, no sales.

We collectively urge you to accept the challenge of change and find a way to help us take advantage of opportunities within our grasp.

Following this, as you may or may not know, our town council responded, held the required public meetings and passed the required bylaws to allow merchants the choice of opening—and I do say choice.

I do not understand all the ramifications of your proposed legislation, but I do understand it is an effort to curtail Sunday shopping except under special circumstances, ie, tourist and/or historical designations.

As you can tell by my accent, I come from England, and I have worked and travelled a fair amount during my lifetime. In Europe you can shop whenever or whatever time you wish, from 10 in the morning till 10 at night. They long ago gave up trying to legislate morality and

they understand that retailers have the right to go after business whenever and wherever the market is there for them. The marketplace is what dictates the hours of the operation.

As a retailer, I find it beyond comprehension that you would single out my business and try to tell me when I can open. If this is to be the case, I feel it only fair you apply the same standard to every profit-oriented facility service in our province. Why should I have to close on Sunday when plants such as our local LOF Glass of Canada continue to produce, when gas stations, drugstores and convenience stores continue to open, when sports activities and entertainment facilities continue to earn their living?

The term "common pause day" has long since become redundant. Your efforts to hold on to a concept that is no longer applicable through legislation which negatively affects my ability not to become rich but to earn a respectable living is destructive, to say the least.

Collingwood is a tourist area. However, every merchant in every town or city should have the right to open and serve his customers when the marketplace indicates the business exists. They should have this right without going through multiple levels of government.

Thank you very much indeed for listening, and for considering the opinion of one very concerned retailer.

The Acting Chair: We have time for about one quick question from each caucus.

Mr Poirier: Thank you, Ms Stone. I think it is extremely important to hear from people like you who have small businesses, not only the large businesses.

You reiterate that you support this principle for you as a business person to decide, no matter when, no matter where, whether you are inside or outside a tourist area, to open and not let the government decide for you as to when you would want to open. Is that correct?

Ms Stone: Yes, it is.

Mr J. Wilson: Thank you for your presentation. Can you give the committee a feel for some of the types of retailers that signed your petition?

Ms Stone: The best part of the whole town. Actually, if I had spent more time getting names, I am sure there would have been a couple of hundred people, because after it had been closed and given to council, there were people still coming in my store saying, "I didn't know anything about it." But unfortunately I started rather late and one cannot leave the store too long. We have to be there for business.

Mr J. Wilson: It is my understanding your bottom line is all or nothing: either allow everyone to be open or—

Ms Stone: Not exactly. I do feel that the Toronto area and the busy area should be open but, most positively, tourist areas like ourselves should definitely be open. We get a living from local people, but you cannot get a big living. You really need the tourists. They are the ones who are buying our homes, buying our clothes, eating in restaurants, building—everything. The small town definitely has to have Sunday shopping, without any doubt at all.

Mr Fletcher: Thank you for your presentation. You are not part of a big chain, or any—

Ms Stone: No, I am a one-man business.

Mr Fletcher: That is right, and you believe that you do fit the tourist exemption as far as you are concerned, that you really should not have too much of a problem with that part of it, that you would be open. Is that correct?

Ms Stone: Yes.

Mr Fletcher: Okay, fine, thank you.

1320

CLOTH SHOP OF COLLINGWOOD

The Chair: Our next presenter will be from the Cloth Shop of Collingwood. Would you please come forward? Our format will be that you have 15 minutes to make your presentation. You can either take the whole 15 minutes for your presentation or make a shorter presentation and allow questions or comments from each of the caucuses. Could you please state your name and proceed?

Ms Huycke: My name is Katherine Huycke. I own and operate the Cloth Shop of Collingwood. I have four other retail outlets in other communities. I would like to thank you for the opportunity to speak here this afternoon.

I want to begin by saying that our ancestors arrived in this country and worked hard from dawn until dusk to create a place they called home. To earn a living they worked six days and on the seventh they did rest, and even then they died at a very early age.

This is 1991. We are living in the wealthy province of Ontario. We have become fat and we have become lazy. We demand good service, and perhaps that is all we can offer in these economic times.

You are aware that we, the retailers in this community, live and work in this recreational destination. Its population is some 13,500 persons. It has remained this way for many years. Heavy industry appears to be a thing of the past. Service industry is on the rise. We have significantly higher numbers on good winter and/or summer weekends, possibly an additional 25,000 persons. Visiting Wasaga Beach are possibly 100,000 persons.

There is obvious confidence in Collingwood by our government and our banks, as certain groups here have received hefty loans: approximately 5,000 new condominium owners. They bring with them their guests; they spend a two- to three-day weekend here; they encourage convention groups to use their condominiums.

As my retail outlet, the Cloth Shop, is situated, luckily, on Highway 26, it is my personal observation that hundreds of cars pass my door to these developments and/or tourist attractions. There is unlimited potential for our services and our businesses.

Business is business. We are all here to promote ourselves; we all promote ourselves, our country, our town, our places of work. We spend millions of dollars on promotion to get our messages across. It becomes more significant if we in this community of Collingwood can make ourselves available to service the needs of these potential patrons. When our town needs the revenue, does it not

make good sense to be able to be available to people on weekends?

I invite you to stay in the Collingwood area so that you might see at first hand the numbers of visitors that drive to this destination. If our stores do close down in the near future, we will perhaps feel like the fisherman sitting in a stocked fish pond without a hook on his line. For the people of Collingwood, when we are on the brink of prosperity, with continued planned development in our future, without the ability to serve we are lost. I ask for your consideration regarding this issue today.

The Acting Chair: Each caucus will have about three minutes.

Mr Poirier: Ms Huycke, you obviously strongly feel that, being a tourist area, you should be the only one to decide when you want to open, how you want to open, regulate the nature of your business hours. Is that correct?

Ms Huycke: I feel we should have the choice.

Mr Poirier: Fair enough. Do you believe that this should be limited to tourist areas and whatever? What is your opinion on that?

Ms Huycke: I would like to see it more tourist areas, yes. It is going to be very hard, I suppose, to define a tourist area in the future.

Mr Poirier: So you see a problem with the definition of the tourist area. How do you feel about the local municipality ending up having the responsibility for defining what is tourist or not or what is a tourist service or not?

Ms Huycke: I would perhaps like you to throw it back into the municipality's area to decide on that. They live here. They have firsthand experience with what is going on.

Mr Poirier: And you are comfortable with that?

Ms Huycke: I am.

Mr Carr: Thank you very much for your presentation. One of the concerns the government has expressed is how to protect workers, and I was wondering, as somebody who schedules workers in and out, how you would see that being done. Do you force people to work on Sundays, do people volunteer, are there enough people who would work Sundays, and how would you balance that out? Maybe you could just explain to the committee.

Ms Huycke: Mr Carr, I believe strongly that all of the business is well looked after by our government to ensure that our staff persons are looked after. There is legislation already in place. I do not feel you can harass your staff or press them to work. I think it is an absolute smokescreen that that is a problem. More and more we are having shared workplaces, because of maybe economic times or women wanting to spend some more time now with their children. I have been operating for eight years with my store being open on Sundays and have never yet found a problem staffing my shop.

Mr Carr: What would happen if, for whatever reason, and it probably would not happen here, in fact you had to close down on Sunday? How much of your business do you think you would lose as a result?

Ms Huycke: I do not think I can answer that question, but I want to impress upon people that I am sure it is of major importance that the town does have revenue on a Sunday to stay alive and well. Personally, my feeling is service. I want to underline service. The contacts would be invaluable. It is not so much the commerce I want to do on Sunday. In fact, my Sunday business is open from 12 until 4 and it is basically there just for service.

Mr Carr: Thank you very much, and good luck.

Mr Fletcher: Thank you for your presentation. I really do believe that you as an employer would not coerce or try to force your people to work if they did not want to.

One interesting fact was that you said they have enough protection. If I can just quote from a former Liberal MPP who was on the road with the previous Bill 114 that was supposed to protect employees: "You have to work when the business is there and employees are jeopardizing their jobs by refusing to work. An employer will eventually find someone who is willing to work on Sundays." This was with the Liberal law that was put in before, and a Liberal MPP, Mr Rick Ferraro, who is no longer in the Legislature, who was stating that fact. There are employers who will coerce and do things. As I said, I do not think you would because of the nature of your business. But one of the things is to strengthen that so that employees and employers can have some understanding.

Ms Huycke: I think you are going to see in the 1990s that basically the hands-on management has changed significantly. I do not feel that kind of management is going to stand anybody in good stead in the future. You are going to see shared, co-operative work climates.

Mr Fletcher: As I say, not all employers such as yourself are that forward-thinking, and I am glad to hear that from you, but there are going to be cases where legislation is going to have to be there.

Ms Huycke: Yes, I am sure. There always are.

Mr Fletcher: I think that is why it is there, just in case someone does get a little out of whack.

Mr Poirier: May we work for you?

Ms Huycke: Certainly you may.

The Acting Chair: Ms Huycke, on behalf of the committee I would like to thank you very much for your presentation.

The Acting Chair: Our next presenter will be from Darsco, Mr Ed West. No. Is anybody here from Clarkson's Country Furniture? All right, we will take a 10-minute recess.

The committee recessed at 1330.

1344

COLLINGWOOD CHAMBER OF COMMERCE

The Acting Chair: I call this meeting back to order. We have somebody from the Collingwood Chamber of Commerce as our next presenter. Our format is that you will be given half an hour for your presentation. You can either use the full half-hour for your presentation or you can make a shorter presentation and then the allotted time afterwards will be split evenly between each caucus. Would you please identify yourself and then proceed.

Mr Mansfield: My name is Craig Mansfield. I am the past president of the Collingwood Chamber of Commerce, and I am here on a double-edged sword. I am here to represent the chamber of commerce and some of my own personal views, which I will separate.

Most 10-year-olds can tell you what happened to the dinosaurs. They did not adapt to changes in their neighbourhood and they died off. The world is changing everywhere, and I do not know why people keep thinking it cannot happen here. We see manufacturing jobs disappear and there will likely be many more if free trade goes through with Mexico. The same thing is happening in the United States. We should do something other than standing around and waiting for these jobs to come back.

Retail sales is an area where we can do something. North America is becoming a service industry. We are a service continent. We have to start looking at what our forte is and what our strengths are. We can do service, we can do retail and we can do research and design. These are our strengths. Retail is the issue today and we feel in the chamber of commerce that we are being held back by the type of legislation you people are putting at us.

This chamber of commerce started in 1988, and I will give you a brief background. In 1988, we did a survey of our members. Of 200 members, we got a consensus of 54% that we would like freedom of choice. In other words, we wanted to decide ourselves whether we would open our businesses on a Sunday. Most of the businesses that do not wish to open will not open. That is what Canada is all about, freedom. The entrepreneurial spirit of this community and of this country is at stake here. If you do not allow people to have freedom of choice, if you do not allow people to run their businesses in a profitable manner, they will not stay here. We will be losing businesses to the USA, where they have more freedom, and we cannot afford this in Canada.

Our local council has just gone through a second reading of Sunday shopping laws in this community, and the consensus of our council and of most of the community at this time is that we require Sunday shopping. When we look at our main street, we have empty stores. The reason we have empty stores is because retail is not profitable. We are two years, three years behind what they are doing in the United States, and if we are going to compete in the North American market, you have to allow us to compete on a level field. You have not allowed us to do that.

My thoughts on running a business are that if I had not opened my business—I have a lock and key business in Collingwood here and I started it 12 years ago. When I started this business, I started out of my home. When I looked at the marketplace I had to service, I had to look at when I was going to get at the customers, the customers being the people who fill the homes in this area. If I had not chosen to work on weekends—and I am saying Saturdays and Sundays, when the skiers and the summer people and the fall people and the spring people come up here and use their chalets—I would not be sitting with a business today employing two people plus myself. I still work Saturdays and Sundays, and the reason I did this was because I looked at the market and said: "This is when the people

are here, therefore this is when I want to work. This is when I have to work."

We are a tourist area, and to not allow us to do work when the people are here is just absolutely ludicrous. Collingwood is situated within 60 miles of Metropolitan Toronto, of the Golden Horseshoe, which has eight million people in it. We are a destination area; there is no doubt in anybody's mind that this is a destination area. If these people come up and then cannot get service, it is like opening a plant and saying: "Well, we are only going to let you work three days a week. The other four days we are going to close it down because that would be really nice." But it does not make any sense.

1350

If the people who are making the decisions on when businesses can open and close would say to us: "All right, we are going to allow the businesses not to open on Sundays, but we are going to cut your taxes by one seventh, we will cut your education tax by one seventh, we will cut your contributions to OHIP by one seventh and we will absorb it. The workers and the homes will pay the extra money rather than businesses, because business pays the major part of what goes on in this province."

You have got to start looking at the cost of doing business. If there is no profit to it, why are we doing it? Why are we spending all our time creating jobs for people and not making a profit from it? All we are doing is being legislated back.

We are only asking that you allow businesses to operate on a fair and equitable playing field. To say to us that a manufacturer—LOF is an example in this community—LOF Glass can open seven days a week, 24 hours a day, why am I as a retailer restricted?

Close down LOF. Do not let them operate seven days a week. Why is it that old laws—and this is what we are talking about—are in place in our society today that are not relevant to today's business climate?

I think as a whole all government has to take a look. I refer to all three parties. I think all three parties have to look at their involvement in business, their interference in business. We are very viable and strong in this province, but if we keep on taxing and keep on legislating and keep on putting roadblocks in the way of businesses, we will not have the strong economic community we have had in Ontario. It is not going to stay here if it cannot grow, if there is no incentive to it. You cannot take away the entrepreneurial spirit of business people.

Coming out of university in the United States, most people come out of college, as we call it in the States, and they want to go and start their own business because it is inbred to them to go out and start a business, and when you start a business you employ people. We do not have that spirit in Ontario. Every time we turn around, we say: "Why do I want to be a lawyer by myself? I think I will join a firm. It is much easier." We do not make it easy for businesses to start up. The loops that government puts businesses through and new businesses through are just horrendous.

I object to the words "Sunday shopping." Seven-day openings is what we are talking about, the ability to operate a business efficiently. This community in effect needs it.

We have sat here. We have gone through this where we looked at it two years ago and we said: "What do you want in this community? Do you want empty stores, people unemployed, no business taxes?" Today we are sitting with empty stores, people unemployed and no business taxes coming into the community because we waited too long to legislate municipally our Sunday openings.

This is why we are losing to cross-border shopping. We waited too long to come back and say: "Okay, let's get a level playing field. Let's let these businesses work." We are five years behind the United States on a retailing level. That is unacceptable. There is no reason we should be five years behind. We should be leading the way, but because of the legislation in Ontario and in Canada we are five years behind. Now we have to play catch-up and it is much tougher to play catch-up than it is to lead.

I think you people have really got to take a long, hard look at what you are going to bring down in legislation here.

The Acting Chair: Each caucus will have about six minutes.

Mr Sorbara: I want to take issue with your view of history. My understanding is that the dinosaurs were trying desperately to adapt but, as it so happens, there was a socialist government elected at the time and they just put up too many roadblocks. The rest is history, but it was not the fault of the dinosaurs. It was the fault of the environment at the time.

Mr O'Connor: I object, it is hearsay.

Mr Sorbara: I take the same view as the business community right now, both retail store owners—whether they are large conglomerates or, even more so, small business people—and the people, the men and women who work for them.

Is it not the case that the marketplace changes and shifts with the passing of time and trends, and that in the retailing business the secret to success is to move with the environment as that shifts?

Mr Mansfield: We have to have the freedom to do this, though. If we do not have the freedom to make our own choices and people say, "No, you can't do this; you are breaking the law if you do this," then you cannot change. Then you are going to die. This is what this legislation that you people have in front of you is going to do. It is going to kill the retail business in this province.

Price Club is an example of a way of Sunday shopping. These people have come into Canada. They have set it up. They have organized it and they are doing what the Americans are doing openly across the border. We have to do it under a membership.

Mr Sorbara: As a retailer, would you like the provincial government to legislate the Price Club out of existence?

Mr Mansfield: No. I think the Price Club has its place in the marketplace. I think this is an excellent idea and I think the competition is what we all thrive on. If there is no competition, there is nothing to strive against. Canadian

ans are very good entrepreneurs if we are allowed to do these things.

Mr Daigeler: Just a brief question that Mr Sorbara might come back with. I was not travelling a couple of years ago with the committee when there were hearings over the Liberals' proposed legislation, but I get the sense that the tenor of the presentations was very different at the time. Either it was different people or there was a significant shift of opinion since then.

I am wondering, are you aware whether your chamber made a presentation then, and was it the same position that was put forward? Do you know at all what the position of the Collingwood chamber was with regard to the Liberal legislation?

Mr Mansfield: I do not know what year they were doing this. In 1988, we did our first survey and the chamber has constantly stayed on the same focus: that we are freedom of choice. That has been the consensus of our membership throughout.

Mr Daigeler: You supported at the time the municipal option.

Mr Mansfield: Yes. That was at the same time.

I had a conversation with Mr Clarkson, who was scheduled to speak here today and at the time that the Collingwood council was having its open debates over Sunday shopping, Mr Clarkson was not in favour of Sunday openings. However, down the road in early spring I happened to speak to Mr Clarkson. He had since opened his store on Sundays and I said to him, "How are you making out opening on Sundays?" He said to me: "As much as I hate to say it, I am able to employ people and make a profit. I didn't want to open Sundays but economically I have to." He also created jobs by doing this and we do not have enough jobs in this province now.

1400

Mr J. Wilson: It is always interesting to have lectures about economics from the Liberal Party. Mr Sorbara's correction of history from the party that raised taxes at unprecedented rates—

Mr Sorbara: Here we are getting into political discourse.

Mr J. Wilson: Just thought I would throw that in, Greg. Craig, thanks very much for appearing before the committee today. I am going to play devil's advocate for a minute, what the NDP do. You did a 1988 survey, if I heard you correctly, and you had 54% of retailers surveyed at that time who wanted freedom of choice. As former president of the chamber of commerce, I guess you have to represent all the views. When you allow those retailers who want to be open to open, does it put undue pressure on those who do not want to be open?

Mr Mansfield: No, I do not believe it does. I think every business will survive at the level that the owner and entrepreneur wants his business to survive. You make the decision in business to either become very large or stay very small and you find the level that suits you, the income that suits you and I think you go to that level. We are like water, we take the easiest route.

When I came to town there was one other locksmith in the community. He never worked the Sundays. He never worked the Saturdays. I chose to. He still does not work the Saturdays. He still does not work the Sundays. That is his choice. I have never forced him to. He has never forced me to.

I do not look at my competitor and say, "You sell this at \$10." I look at my costs and I say: "I have to get \$12 for it. Therefore, I am not going to sell it one dime under \$12. I will not do it for nothing." You do what is best for your own business, and each business looks at itself as an entity unto itself.

Mr J. Wilson: It sounds like your bottom line would be that you would just prefer the government not to regulate in this area at all.

Mr Mansfield: I think if the government is going to regulate in the retail area, then it should start taking a look and changing everything. Either shut down General Motors and shut down LOF Glass and shut down everything else—if you are going to regulate me as a retailer, which is my choice, then you shut down everything. Otherwise you are discriminating against me and I will not accept that. You have no right, because I chose to be a retailer instead of a lawyer or a doctor or a factory worker or a foreman or a general plant manager, to place me on a separate scale and say, "Okay, you're a retailer; you can't work."

Mr Carr: The Ontario Chamber of Commerce came in earlier in the week. I do not know if you are familiar with it, but one of the provisions in here for somebody getting a tourist exemption is that he has to have the support of the chamber of commerce. The Ontario Chamber of Commerce said it was horrified when that came out, because in fact it had not been consulted and it was sort of thrown in its lap. I was wondering if you could comment on that, what your feeling is about forcing chambers of commerce across this province to have to jump into the fight with a letter of support if you are going to get a tourist exemption.

Mr Mansfield: We are not an elected body. We will come to the municipal government, we will come to the provincial and we will come to the federal with our opinions, but we are not an elected body. Our membership changes every year. Every two years we change our leadership. So to put this onus on somebody is not the effective way to do it. You want continuity in what you are going to do. What they are trying to do with this is the same thing as the Liberal government did when it dropped it on the municipalities. They are trying to distance themselves from the decision-making. All you have to do is say, "Open it up; make your own decisions," not through this body or that body.

We do not need more bureaucrats. We do not need more muddle and paperwork. We just need to be able to work, and to drop it on the chamber of commerce is completely unfair, the same as it was completely unfair to drop it on to the municipalities.

Sometimes politicians have to stand up and say, "This is what's right." That is what people in this province are look-

ing for, somebody who will stand up and say, "This is what's right for the province of Ontario."

Mr Fletcher: Just a short couple of questions. We think this is right.

Mr Mansfield: Unfortunately.

Mr Fletcher: We are standing up and saying it, and that is what you asked us to do, sir. As far as the Sunday working situation, do you agree that employees should have the right to refuse work on Sunday?

Mr Mansfield: Definitely, but when are they going to have the right to refuse to work at LOF Glass and General Motors?

Mr Fletcher: This is a retail business act. This is not the Employment Standards Act.

Mr Mansfield: Why am I different from LOF Glass and General Motors? What makes me such an ogre and those guys so great?

Mr Fletcher: I do not know. I did not say you were an ogre.

Mr Mansfield: Why are you legislating against independent business? That is what you are doing: You are trying to legislate against independent business.

Mr Fletcher: Am I being asked the questions or am I asking them?

The Acting Chair: He has a right to ask questions too.

Mr Fletcher: Suppose Collingwood does open wide open. You do not have bus service on Sunday and that will be a requirement, possibly, for people to get to work and everything else. The transportation, the expanded police force activity, day care facilities that are going to be needed—who is going to pay for this? If this law is wrong and we say, "Okay, wide-open Sunday shopping for business interests," is business going to pay for the costs?

Mr Mansfield: The business taxes that are paid—

Mr Fletcher: Is it business exclusively that is going to be paying for it, business municipal taxes?

Mr Mansfield: If you people would be more efficient with it instead of throwing it around in \$9-billion deficits, then there would be more money around to do it. The business taxes we pay on a seven-day-a-week basis would more than cover it, yes.

Mr Fletcher: So property taxes would go up to cover this also?

Mr Mansfield: I do not see any taxes going up if we would have a little bit of efficiency in this world.

Mr Fletcher: That would come down to the municipality when it comes to expanding the services. It has nothing to do with us, and you are the people who want the services expanded.

Mr Mansfield: I do not know where you are from, Mr Fletcher.

Mr Fletcher: Guelph.

Mr Mansfield: You are coming from Guelph and you are telling us here in Collingwood what we are going to have to expand.

Mr Fletcher: The same holds true for my city.

Mr Mansfield: Different strokes. What you are saying is not necessarily true.

Mr Morrow: Yesterday we had the Ontario Chamber of Commerce present a brief, indicating that in 1988 it adopted a position that is very close to what we tried to achieve. Did you agree with their position then?

Mr Mansfield: I am not aware of what that paper said, so I cannot comment on it.

Mr Morrow: I can give you briefly what they said yesterday in their brief. It says the majority of surveyed retailers would prefer to remain closed on Sundays.

Mr Mansfield: That was not the survey that was taken by the members of the chamber of commerce in Collingwood.

Mr Morrow: Do you agree with the absolute right to—

Mr Sorbara: On a point of order, Mr Chair: I think if for no other reason than as a matter of courtesy and respect to the submissions that we heard yesterday from the Ontario Chamber of Commerce, Mr Morrow should be pointing out here in Collingwood as we hold these hearings that the witness there, Mr James Carnegie, testified that the opinion of his members, although they had not adopted a new policy resolution, on the question of whether or not a store should be able to be opened has changed dramatically since 1988, and that was the real thrust of his testimony.

The Acting Chair: That is a point of information, thank you. Mr Morrow.

Mr Morrow: This is April 1991. Do you agree with the absolute right of workers to refuse Sunday work?

Mr Mansfield: Yes I do.

Mr Morrow: Can you possibly tell me how many jobs were created by the Sunday shopping option?

Mr Mansfield: No, I cannot tell you how many jobs are created. Could you tell me how many have been lost because we do not have it?

Mr Morrow: What kind of jobs?

Mr Mansfield: Excuse me, I could not answer yours, but possibly you could answer mine. You seem to have all the information. How many jobs have been lost because we do not have it?

1410

Mr Morrow: I have the figures here, sir, that no jobs were lost due to Sunday shopping. Can you possibly tell me—

Mr Mansfield: You believe that?

Mr Morrow: I believe that very strongly. What kind of job, sir, do you feel that you are creating by opening on Sundays, full-time or part-time?

Mr Mansfield: I believe I can create full-time jobs and I believe that we can create good part-time jobs, which would give our unemployed students, which we have an abundance of in this province right now, the opportunity to earn some funds. Possibly if they could earn some funds,

we would not have to spend as much on subsidizing their tuition.

Mr Morrow: Now that you have this bylaw in Collingwood, what business is open? What type of businesses? Big stores, small retail?

Mr Mansfield: It looks like more small retail stores that would have maybe an owner and two employees.

Mr Mills: Thank you for coming and talking to us. Everything you say has been taken into consideration, I assure you.

You made one statement that said, "We, in Canada, are five years behind the US." I take it that was to mean in wide-open shopping, so my question to you, very briefly, is: Can you see the importance of family life in Canada being somewhat different than the United States, vis-à-vis the opening of Sundays and allowing families to be together or not being together? Do you attach any importance to that consideration?

Mr Mansfield: I attach a great deal of importance to families being together, and I would like to relate a story to you, sir, that maybe would emphasize this. When we were discussing Sunday shopping in Collingwood, we had a presentation from a lady named Sylvia who worked at Towers. She was very adamant that we should not have Sunday shopping because it was a family day, and she had to spend it with her family. She wanted to walk among the roses and smell the fresh air and spend time with her family on Sundays, and this was her first presentation at the first public meeting.

At the second public meeting, she did not come quite as well prepared with her written statement, and she got a little carried away when there were more people there supporting Sunday shopping. She got up and wanted to have her say, and as she was running through having her say, it turns out that on Sundays, her Sunday outings were spent on a farm up in Feversham. Her husband works, she works at Towers, and they have a 100-acre farm up in Feversham. The Sunday outing consisted of looking after and caring for 100 head of cattle that had to be done. So this was a family outing, working on Sundays.

The family will find the time to be together. The parenting skills that people have, they will bring out of themselves. You do not have children for the sake of not spending time with them. You make the time, but you also prioritize these times to suit your own lifestyle. To say that everybody has the same lifestyle is not true.

The Acting Chair: Mr Mansfield, on behalf of the committee, I would like to thank you for your presentation.

Mr Mansfield: Thank you very much for having me.

GEORGIAN TRIANGLE TOURIST ASSOCIATION AND CONVENTION BUREAU

The Acting Chair: We will now call on the Georgian Triangle Tourist Association and Convention Bureau, which was displaced from first thing this morning. You will be given 15 minutes. You can give a 15-minute presentation or a shorter one that allows time for questions and comments from each of the caucuses. Please identify yourself and then proceed.

Mr Sorbara: Mr Chair, on a point of order: My impression was that organizations were provided with half an hour before this committee. Is there any particular reason why we have limited the Georgian Triangle to 15 minutes?

Clerk of the Committee: The reason for that is when the Georgian Triangle called me and I was speaking with them, they said they could do their presentation in 10 minutes. That is why they were slid in at 8:50 this morning. It was at their request. If the committee wants to extend the time, that is up to the committee.

Mr Sorbara: I note that the next witness is scheduled to be here at 2:30; perhaps we could just allow a little flexibility so that if any of the members of the committee have additional questions, you will use your discretion and provide us with some more time.

The Acting Chair: Sure. We will take that into consideration.

Mr Sorbara: What a refreshing change on this committee.

Ms Metras: Thank you very much, Mr Sorbara, and thank you very much, Mr Chairman, for giving me that opportunity. I hope the time will allow.

My name is Sheila Metras, and I am the executive director of the Georgian Triangle tourist association. Our association represents over 450 tourism and tourism-related businesses, many of which are small business operators. We are speaking today directly on their behalf.

We represent as well the chambers of commerce of Meaford, Beaver Valley, Collingwood, Wasaga Beach and Stayner through a committee of our tourist association known as the Georgian Triangle interchamber committee. That is a committee that allows us to share and exchange views on matters of concern and interest to our respective members.

The Georgian Triangle area covers the geographic, cultural and economic area from Meaford in the west to Wasaga Beach in the east, a total of seven core tourism municipalities. The Georgian Triangle area is an interdependent linked marketing area, very heavily dependent on tourism and on the hospitality retail sector for its economic wellbeing.

Tourism is, at the present, the mainstay of our Georgian Triangle economy. The area has suffered greatly from the heavy layoffs and plant closings in the industrial manufacturing sector. Some of those jobs which have been lost locally will not be regained in the future. The majority will probably not be replaced without great difficulty.

In 1987, when the largest employer in the area, the Collingwood Shipyards, closed its doors, the community looked to tourism to sustain it through the transition to new employment opportunities for the labour force. A construction boom, brought on by the high demand for recreational housing, fuelled high prosperity in the entire Georgian Triangle area. In the present, in the severe recession which we have been experiencing and which we are afraid is not yet over in Ontario, we are once again counting on visitor dollars to generate employment and future opportunities for our citizens.

The Georgian Triangle is one of the most tourist-intensive, four-season destination areas in Ontario. We fit six out of the six criteria established for the official municipal tourism exemption under Bill 115. Our Georgian Triangle visitors enjoy exploring the area. That is a great part of their vacation experience. However, for many, shopping while they are on holiday is a pleasurable component of their holiday experience.

Many of our visitors were startled to find the entire town of Collingwood with its beautiful Main Street, which is so attractive to browsers and set up that way with music and shade trees and benches, closed up tight on Sundays. Fortunately other shops in the Georgian Triangle area were open, though visitors are deprived of the excellent quality and variety of shopping to be found in Collingwood. Collingwood really is the major draw in the Georgian Triangle.

As you know, tourism is highly competitive. We are struggling mightily to keep our market share. To do so, we must provide all services, and that includes shopping on a seven-day, everyday basis if we are to maintain that market share, particularly in tough times when discretionary dollars are in very short supply and the visitors can afford to be choosy. They do not have to come here; there are other places they can go.

The Collingwood Chamber of Commerce did a study in 1990 which showed the majority to be in favour of Sunday and holiday opening in Collingwood, and very recently Collingwood passed bylaw 91-47, permitting retail establishments to open on holidays and Sundays. This will start the process for the town to apply to the province for tourism-exempt status.

The policy of the Georgian Triangle tourist association is to support the tourism-exempt status for those Georgian Triangle municipalities that wish to apply for it. We support the right of individual businesses to choose if they wish to open or remain closed on Sundays and holidays. Last, but most important, we respect and support the right of retail workers to refuse to work on Sundays and public holidays. There are more than enough persons willing, and in many cases wanting, to work on Sundays and holidays that no one should be forced to work. In a recreation area such as the Georgian Triangle part-time employment for students and for others is an integral component of the local economy.

We would like to point out that the Georgian Triangle tourism and hospitality industry must, with some seasonal exceptions, provide continuous service to our visitors seven days per week, 365 days per year. Our own tourist information centre is closed on one day only, Christmas day, and we still have requests from people to open on that day.

Our employees have always accepted this fact as a precondition of employment in an industry which is dependent on good service, goodwill and professional hospitality. The present Employment Standards Act protects all retail business establishment employees. Employees can be asked to work at any time by employers beyond their normal working hours and many are more than willing to do so. However, no employee can be discriminated against for not accepting work outside of normal working hours.

Indeed, most employees are treated with dignity and respect by employers whose businesses are so dependent on staff attitude. The tourism industry is built on co-operation and a certain esprit de corps, so the employers have a vested interest in keeping their employees happy. So we ask, is there a need to establish any new law to protect worker interests beyond that which exists already?

1420

We expect that a tourism-exempt status for applying Georgian Triangle municipalities will stimulate our tourism through increased services to visitors. It will also provide desired services to our very large second-home market. Close to 4,000 new condo units have been constructed in the area since 1988 and are primarily owned by weekend and holiday residents. Anecdotal surveys confirm that Sunday shopping will be viewed as an important service, particularly, as an example, for the home handyman who breaks an essential tool or runs out of paint in the middle of an important home project on Sunday.

We support the motives behind the amendments to the retail business establishments statute in Bill 115 because it endeavours to recognize the importance and value of tourism to the local and provincial economies. However, we must articulate some of the concerns that surround Bill 115; namely, the difficulties that municipalities, retail businesses and other organizations face in interpreting, administering and applying the proposed tourism criteria fairly. To begin, we would recommend the following changes in the tourism criteria regulation.

Under tourist area characteristics, these changes and recommendations include that the list of characteristics for a qualifying geographic area should be expanded to include the following tourism criteria: (a) tourism in the area has historically been an important part of the local economy and (b) it provides goods or services necessary to tourist activities in the area.

Under the retail business restrictions section, we recommend that the clause that asks for the number of persons serving the public and the floor space occupied by a qualifying business should have no bearing on its ability to meet common tourism criteria.

Tourism season qualifier: These time periods will vary of course within a designated tourism area, as will the length of the tourism season for various types of qualifying retail business establishments for a wide variety of circumstances. We feel the qualifier could be removed from this subsection.

The following are concerns that have been expressed by Tourism Ontario in its brief to you, which you have already received, and we would like to see some of these concerns addressed.

The first one is that the empowerment of local municipal councils, clause 1(1)(aa) of the Retail Business Holidays Amendment Act, 1989, should be amended to permit all local municipal councils within a district, county, metropolitan or regional municipality to enact bylaws to permit retail business establishments in each local municipality to be open on holidays for the maintenance or development of tourism. It is duplicative, unnecessary and unfair to burden metropolitan or regional municipal coun-

cils with applications from local councils regarding designated tourist area exemptions.

Councils' obligations are a point that we were quite concerned about. Municipal councils should not be granted discretionary power through which they can refuse to pass a designated tourist area bylaw permitting any or all retail business establishments which meet the provincial tourism criteria and apply for exemption to be open on Sunday.

To make a given municipal council's decision final on whether or not it wishes to pass a bylaw to permit retail business establishments in a municipality to open on Sundays and holidays defeats the whole purpose of its having such authority in the first place. That is to suggest that no legitimate reasons or causes could ever be presented to a municipal council which had refused to designate a tourist area under a tourist area bylaw exemption, regardless of merit, including future development of tourism infrastructure or ventures within said municipality. Surely, in the democratic society which the government of Ontario is committed to for all of its citizens, such a draconian clause could be withdrawn.

Procedures of councils: Municipal councils should not be granted the sole power to limit the number of applications from retail business establishments that they will consider in a given year. Businesses should be free to apply for the exemption at least once every calendar year. We are also in agreement with the basic philosophy behind the recommendations of Tourism Ontario that will eliminate obstacles which prevent businesses from exercising their basic fundamental rights and freedoms to open when and where they perceive a need to provide retail shopping services. We support the right of the public to choose where and if they wish to shop on Sundays and holidays. We support the unrestricted right of Ontario citizens to work, provide services and earn income from the production and sale of goods and provision of services any day of the week.

We support elimination of a costly administrative burden on the municipalities and the potential for possible litigation problems by providing for an appeal process or a body such as the Ontario Municipal Board to act as a mediator between the local councils and the province and between the business community and the local council. This is of great concern to us because there does not appear to be any appeal mechanism outlined in the bill at this point. This is an important element if we are to eliminate potential litigation on both sides, for the municipalities and for the businesses, and to allow businesses the right to a fair hearing without the need to establish a costly and cumbersome new bureaucratic office within government.

The town of Collingwood, in its brief on Sunday shopping, addressed that problem. There would have to be some fair criteria set out by them, so they are aware that there is a great responsibility on their part to come up with a process through which all businesses can access the right to open.

We would like to see those concerns addressed. These are as reiterated by Tourism Ontario in its brief to you. Tourism Ontario, as you know, is an independent federation of tourism organizations and groups. We have had

great service from their advocacy in the past. We hope you will address those concerns so that we all can feel that due process has been given.

Our association thanks the standing committee for the opportunity to speak to you about the value and importance of Bill 115 to the Georgian Triangle tourism industry. Tourism is an integral and major component of the Georgian Triangle economy and indeed Ontario. We hope the recommendations and representations made to your committee by Tourism Ontario and other tourism organizations such as ourselves and the chambers of commerce will be carefully considered before the legislation is passed.

1430

The Acting Chair: Thank you. I think we will allow about two and a half minutes for each caucus. I am sure that with short and concise questions and answers, we will get through this.

Mr Sorbara: A very good and interesting presentation. There is one irony in it, not to say inconsistency, that I wanted to question you about. The major thrust of your submission seems to suggest that you support the bill in general terms and you set out a series of amendments which would make it better. By the way, I agree that if we are going to have this bill, amendments along those lines should be adopted by the government. But then in your submission you say, and I think I am quoting, "We support the right of retail businesses to open when and where they please." You go on to say, "We support the unrestricted right"—and I am paraphrasing here, but I think it was "of citizens to be able to shop in the manner which most accommodates their lifestyle."

This bill that we are confronted with says retail businesses shall not have the right to open on Sunday unless they can come within narrow criteria and come within some sort of tourism exemption. The notion that businesses, not just tourist businesses but businesses generally, should have the right to open when and where they please is inconsistent with that.

Which does the Georgian Triangle advocate? Is it the freedom for a non-tourist business to participate in the market on Sunday or is it a restriction to tourism with better criteria?

Ms Metras: Mr Sorbara, we are speaking to the bill which we see here. We have suggested some amendments in the tourism criteria, but we would expect there would have to be criteria for businesses to open. I do not think you can have unlimited opening any place or time that a business might want to. We are respectful of the intent of the bill because it does recognize the value of tourism. It is going to establish some criteria for communities to apply, and we feel that is fair.

Mr Sorbara: So you support the view that there should be special rules for Sunday openings that do not apply for openings on any other day of the week?

Ms Metras: Yes, I think we could support that.

Mr Sorbara: Under this bill, any business that is over 7,500 square feet would have to make a special application and have the certification of the local chamber of com-

merce before it was permitted to open. Do you think that is fair?

Ms Metras: No, I do not. I think that wherever the municipality can meet the criteria for the tourism exemption, all businesses within that municipality should be allowed to open, regardless of size.

Mr J. Wilson: Thank you, Sheila, very much. I found it very informative. On the question of the size of the establishments, with the 7,500 square foot limitation now, if that were to pass as is in the proposed legislation, how many businesses or to what extent would businesses be affected in the Georgian Triangle?

Ms Metras: There would probably not be that many. There are two or three which I think would open, though it is interesting, because if the business has the right—

Mr J. Wilson: Excuse me, how many would not be able to open if that criteria were in?

Ms Metras: You mean if the 7,500 square feet was kept as the—

Mr J. Wilson: Yes, and the eight-employee one too.

Ms Metras: I am really not sure. I think there would probably be a few, but again, as Mr McMullen said, at IGA it takes 20 people to open his shop and he probably would not do it at a grocery store. That would be one of the businesses that potentially would not be allowed to open if that criterion was held to, but there will be others that would open if they had that opportunity. I do not know how many.

Mr J. Wilson: During the period last year when we had essentially unregulated Sunday shopping, what was your experience here from a tourism perspective in the sense that some of the stores were open? Maybe you can give me the history. We had unregulated shopping for, what, about eight months? We had some stores open, some not open; it was basically freedom of choice. I received zero letters on the subject during that period. The office at Queen's Park, I should say, received zero letters on the subject. It did not seem to me once we had unregulated Sunday shopping that people were too upset about it, at least to the point of writing to their legislators. Was that your experience?

Ms Metras: Yes, it was. I think most of our visitors, and I think I can speak to that, were quite pleased to have the opportunity to shop when and where they wished. We did not see any severe dislocation and there did not seem to be any problem that some businesses were open and others were not. It did not take our visitors very long to find out what was open, and they would go there.

Mr J. Wilson: I am rapidly coming to the conclusion that this law has a guise in it that it is going to protect workers, give them a right of refusal. I do not think that will work. As I said before, I think it is going to be a field day for lawyers and that it is just another burden on people in this province, another whole pile of regulations that are piled on the books that we are going to have to follow. I do not think it will be workable a year from now. We will find that much of it is tied up in the courts.

It seems to me a lot of groups come forward with good amendments because they figure it is the best they are going to get; the government is committed to going ahead with this bill. I would agree with them. I am glad they do, as you have made suggestions. But if you had your ultimate choice, Utopia here, would you just prefer not to have regulations?

Ms Metras: I think almost any sensible person would say that.

Mr J. Wilson: Some do not. Reverend Wilson behind you would probably disagree on that.

Ms Metras: When you wade through the amount of paper that is before us, it is a very difficult bit of legislation. We understand the intent of it and we are sympathetic to that. Of course we would appreciate having wide-open Sunday shopping in the province and we would appreciate the province taking the responsibility to do that.

Mr J. Wilson: I think that is what you are going to get anyway. I think it is a shell game they are playing here.

Mr Mills: Ms Metras, I would like to thank you for your input here this afternoon. I would just like to take you up briefly on one issue. You seem to have some level of criticism for the tourist criteria. I would just like to tell you that these criteria were established through very wide consultation with the tourist industry in North America and internationally, and from that wide consultation process, these criteria evolved as to what tourism is. That is why they are in here. It is not something our government dreamed up as criteria; it is from the industry. Thank you very much.

Ms Metras: Thank you, but with respect, we would have hoped that those criteria would have been established through consultation with organizations such as ourselves, not international or even across Canada.

Mr Mills: We went to the industry.

The Acting Chair: Mr Fletcher, you have a quick comment and then Mr Lessard.

Mr Fletcher: Thank you for your presentation. I found it to be very refreshing and very articulate. I agree with some of your recommendations. It is nice to see that you come with recommendations rather than just to bash away at certain things. At least you want to participate. I am glad to see there is a lot of participation; that is what this committee is all about. As I said, some of your recommendations I think are very good and you certainly assured me on some things.

Ms Metras: All we can ask is that you consider our suggestions. We are very pleased to work with you at any time to give you the local flavour.

The Acting Chair: We have one more question. Mr Lessard, one quick question.

Mr Lessard: I hope you can provide your recommendations to us in writing so that we can look at them in depth as well.

If I understand your submissions, you do not think there is any distinction between stores that are small and stores that are very large. You think that distinction should be removed. You also think that if there is a certain geo-

graphic area that is within a tourist zone, then all of the stores that are in there should be able to open, including department stores, large grocery stores and things of that nature.

I am going to suggest to you that there may be a difference between how employees are treated. You say all employees are treated with dignity and respect, and I am going to suggest that there may be a distinction between employees in small, independent stores and ones who might work in large department stores or grocery stores. Would you agree or disagree with that?

Ms Metras: I can only speak from my own experience within my own industry in my own Georgian Triangle area, so I could not say. I do not have any experience—

Mr Lessard: Within this area.

Ms Metras: Philosophically, anything is possible.

Just one last comment: Considering the gravity of the matter at hand, we were somewhat concerned about the lack of notice we received as a tourist association of this particular hearing. We do not feel a notice in the local newspaper is sufficient for something as important as this. If you are going to hold more meetings in future, I suggest that certain organizations which would have a direct interest in participating, such as chambers of commerce and business organizations, be notified by mail.

1440

The Acting Chair: Thank you for that comment. We will take that under consideration. Ms Metras, on behalf of the committee, I would like to thank you for your presentation.

Interjection: Was this advertised?

Ms Metras: Evidently it was. I do not know how many times. That is not sufficient for something as important to the business community. It is just a matter to think about.

The Acting Chair: Just for your information, the clerk can clarify this.

Clerk of the Committee: Generally, it is up to the committee to decide how it wants to advertise. Committees generally advertise once in every daily newspaper across Ontario. Some committees specifically send out invitations to certain groups and other committees do not, depending on the issue.

The Acting Chair: We will move on now. Our next presenter—

Mr Carr: Just for the record, we did not decide on this city without a lot of debate. Just for the people who are out there, the fact we even got to come to this city was because of a push by different groups. What went on in the Toronto area—Queen's Park—during the debate was that certain cities did not want to be included because they were border towns. It was sort of last minute that we ended up with this city, and the committee had the option of sending out the invitations.

The Acting Chair: Thank you for that point of information.

LEN ROCQUE

The Acting Chair: Our next presenter is Mr Len Rocque. Thank you for coming here today. You will be allowed 15 minutes for your presentation. You can either take the full 15 minutes for your presentation or you can make it a briefer submission and allow time for questions and comments from each of the caucuses. Please identify yourself and proceed.

Mr Rocque: My name is Len Rocque. I am the president of Vacation Investment Properties Inc and Greenfields Realty Inc, two Collingwood firms that provide marketing and sales services exclusively to the resort condominium industry in the Collingwood area. I am also past president of the local Liberal provincial riding association, but I hasten to add that I am not here in any partisan role today.

I am a member of the Collingwood and District Real Estate Board, the Ontario Real Estate Association and the Canadian Real Estate Association. I am appearing here today on behalf of my own firm and not on behalf of any of the associations of which I am a member.

I appreciate the opportunity to address the committee very briefly. My comments are brief. I would like to touch initially on the three principal objectives of this bill as I see them, and I have several very specific recommendations.

The three principal objectives of Bill 115, as I see them, are the maintenance of a common pause day, the delegation of the right to create tourist exemptions to local councils and the protection of employees from Sunday work. In principle, I support all three of these objectives, but I have some reservations. As I have indicated, I have a few recommendations that maybe the committee would like to consider.

On the subject of the common pause day, I would comment only that if a high percentage of Ontarians enjoy a two-day weekend, an even higher percentage enjoy a Sunday common pause day because most retail outlets are closed under current legislation. With appropriate exemptions, I support the concept of a common pause day, and I have no recommendations in this particular category.

On the matter of local councils determining exemptions, I have the following observations. A whole leisure-time industry has sprung up to meet the leisure-time needs of Ontarians. Most of these are Saturday and Sunday oriented and would include attractions and events of every description, from festivals to antique car shows, from cottages to resort condominiums and everything in between. Most of these industries involve some degree of retail merchandizing of goods and services on Sunday. This government should support this leisure-time industry in every way possible. It is a growing but struggling part of Ontario's economy. It is a major contributor to the economy of many communities. Nothing in this legislation should impede this industry from growing and prospering.

With regard to local councils deciding the exemptions, I am very concerned for the small retail merchants in those communities that do not pass enabling legislation or enabling bylaws, those retail merchants who clearly meet the government's intent or the intent of this bill: the small roadside potter or other craftsmen; the antique-shop owner; garden centres; ski shops; pro shops and golf

courses; vendors of recreational and vacation property, either the developers themselves or, in my case, the real estate broker who works exclusively with recreational and resort property.

I strongly recommend to this committee that additional categories of retail merchandizing be added to the provincial legislation so that, at a very minimum, these kinds of operations can stay open province-wide and are not subject to local council approval.

Still on the matter of local councils passing Sunday opening bylaws, I cannot understand why a bylaw passed since first reading of this bill, one which meets all the criteria of this bill, would automatically be repealed when this bill finally comes into force. I consider that to be a waste of time. I can see more public meetings. These public meetings are generally difficult in this community, and I recommend that this part of the bill be changed.

Still on these local bylaws, I recommend that a council passing a Sunday opening bylaw would not be able to repeal that bylaw unless in a specified time period, say two years. I can envision a scenario where a duly elected council, prior to election time, passes enabling legislation so categories of tourist business can stay open on Sundays. You have an election and four weeks later the new council repeals the bylaw. I can see a situation where somebody leases a store for three years, thinking he is going to run a tourist operation out of that, retail merchandizing that caters primarily to tourists, only to have the bylaw repealed. So I would recommend that change in the bill.

The final recommendation regarding bylaws: It seems to me there should be some appeal from an obstinate town council or township council refusing to pass an enabling bylaw for an absolutely obvious tourist-oriented business.

Finally, on the matter of protection for employees hired after passing of this legislation, employees hired specifically for Sunday work by a firm, by a tourist business, I would suggest that there simply is no way that particular employee should be able to, within 48 hours, change his mind and indicate to the owner of that business that he is no longer obliged to work on Sunday. I think the bill can do better than that.

To sum up very briefly, my recommendations, again, would be these: that several categories of business be added to the provincial legislation and that they be permitted under the Retail Business Holidays Act so that these tourist businesses can be open province-wide on Sunday regardless of whether the local council has passed enabling legislation or enabling bylaws; eliminate the repeal of bylaws passed since the act was first read; set a minimum time on local councils for repealing Sunday shopping bylaws; have some type of an appeal process; and improve that portion of the legislation dealing with the 48-hour change of heart by an employee hired specifically for Sunday work.

That is all I have to say, gentlemen. I would be glad to take any questions.

1450

Mr Sorbara: I want to congratulate you for an extremely good analysis of the bill, and I hope that if the

government persists in moving forward with Bill 115, some of the matters you brought up can form part of a package of amendments.

I think the major difference of opinion that is emerging on this committee is there are those who are coming to the view that there is no fair way to choose between the winners and losers in the Sunday shopping issue and that therefore the only fair thing to do is to allow the businesses of this province to choose personally and for themselves whether or not they are going to open on Sunday. Why is it you feel the government should still be in the business of choosing winners and losers through special regulation of Sunday?

Mr Rocque: Like many of us, I guess it is a personal thing, and that is why I indicated today I was not appearing here representing the Liberal Party in any fashion. It is just my personal concept that weekends, specifically Sunday, are a leisure time to be enjoyed by families, and quite frankly, I am not at all sure wide-open Sunday shopping is a necessity or that the people of Ontario are really seeking that, but there are certainly categories of businesses they like to see open.

I think everybody, even those who are opposed to Sunday shopping, still would have his own small list of businesses that should be open on Sunday, although I have heard one gentleman say that nothing should be open on Sunday—absolutely nothing. I do not know how you even take a trip on Sunday in that case, if the service stations and food outlets and what not are not open. I think if you polled Ontarians, there would be a wide range of opinion on how many businesses should be open. I just happen to fall into the category that feels it should be tourist-oriented and that we should not have wide-open Sunday shopping in everything, furniture stores and what not. I am also concerned that if we get to that point, I just do not know how much farther it is going to go beyond retail merchandising. The first thing we know, it is going to be manufacturing and—

Mr Sorbara: Manufacturing is already opened up, sir.

Mr Rocque: I am aware of that, much to my surprise. I found that out a week or two ago.

Mr Carr: Thank you for the presentation. One of the questions I have is what you see happening as a result of this legislation. I think probably in this area here tourist exemptions will probably be met and I suspect, for example, Collingwood will be open, will meet the requirements. What do you see happening in the rest of the province with the legislation staying as it is? Again, this would be just a bit of a guess, but what do you see happening?

Mr Rocque: With the legislation proposed, one of the scenarios I see is real problems for some of my peers up in northern Ontario in communities that have indicated they are not going to pass local bylaws permitting any category of business to be open on Sunday. I happen to represent the real estate and development community. We have resort condominium developers here in Collingwood selling resort condominiums primarily on the weekends. I have been in the business 12 years and my firm has sold 1,000 of the 3,000 units that Sheila referred to. I can tell this committee that 40% of my sales were on Saturday, 40% of

my sales were on Sunday and the other 20% were during the week. I am concerned about my peers in other communities that under this legislation might not be able to open on Sundays to sell recreational properties, vacation properties and resort condominium projects. I do not know how they will survive if they cannot open on Sunday. That is just a partial answer. Other than that, I do not see major problems with this legislation.

Mr O'Connor: I want to thank you for coming today. I am glad to see that you support most of the general concepts we have in the legislation in trying to come up with the common pause day. There have been some differences of opinion, of course, with different workers being talked about, in particular, I guess, the LOF here in town. I guess they have negotiated their hours and they have a continental work shift, so it is a little bit different from what we have here.

You have spelled out quite a few different ways you would like to see this changed, and I just want to reassure you that is why the committee is on the road, to try and get some suggestions. If there are amendments, that will be worked out later on, upon listening to many submissions from many witnesses right across the province. Your support for the general thrust for the common pause day and protection for the worker's right to refuse, which will help the family values aspect of this, and of course in areas where the tourism criteria are so fundamentally important to the local economy, I think is definitely a good way of going. I want to thank you for coming.

Mr Rocque: Mr O'Connor, with respect to the protection of employees part of it, I did specifically indicate my concern with employees indicating they would work for those businesses on Sunday that will be open on Sunday and then have a flip-flop within 48 hours and tell the employer they do not intend to work on Sunday. I have real concerns with that part of the legislation.

Mr O'Connor: The 48-hour part of the legislation gives you some difficulty.

Mr Rocque: Yes. It would be a major problem for me to hire a salesperson who indicated he was prepared to work in my firm on Sunday, when I do 40% of my business, and then notify me two days later he had changed his mind and he could not work on Sunday.

Mr Daigeler: Mr Chairman, before we move on to the next presenter, would the committee be in agreement to make a request to the researcher that some figures be provided on what the actual situation is in Ontario with regard to Sunday work by other sectors of the economy? Several times we were talking about the manufacturing sector being actually open. I would like to know a little bit more specifically what in fact is happening there at the present time and what regulations there are, if that is not too difficult.

Ms Swift: Perhaps you could give me some direction as to which sectors of the economy, which industries, you want me to look at.

The Acting Chair: Auto and steel.

Mr Daigeler: Yes, and Mr Sorbara referred to the manufacturing sector generally. Is this customary? How widespread is this? I just do not know.

Mr Morrow: I understand what you are asking and it makes sense, but as Mr Sorbara knows, my God, there are an awful lot of unionized manufacturing companies out there. There are an awful lot of non-unionized manufacturing companies out there. You might be asking a great deal at that point.

The Acting Chair: We will see what legislative research can come up with and provide it for you.

Mr Daigeler: Perhaps the ministry would have done some work on that. What is the situation currently, other than the retail sector? Are there many? I am not asking for precise statistics, but somebody who can really tell me how widespread is this.

Ms Swift: I will report back to you after I see what the lay of the land is.

The Acting Chair: Thank you for bringing that up.

Mr Morrow: I was going to suggest you might want to break it down into just retail, because we are dealing with the Retail Business Holidays Act.

Mr Daigeler: Not at all. Mr Chairman, that is precisely my point.

The Acting Chair: The point is that a lot of presenters are bringing up the manufacturing sector.

Mr Daigeler: The comparison is being made, and I think it is a very important argument, why just the retail sector if the manufacturing sector and other parts of the economy are operating?

Mr O'Connor: Can I make a suggestion, a very short one, perhaps to include negotiated hours in that research too. Maybe you can break that down. It would give us some guidelines to work with. I think it is a very reasonable request.

Ms Swift: As I said, I will have to look and see what figures are available. I do not know if they break it down that way, but I will certainly look into it and report back to the committee, and perhaps then you can decide what it is you want exactly.

1500

BEV BLAIS

The Acting Chair: I will call our next presenter, Bev Blais. I would like to thank you for coming today. You will be given 15 minutes for your presentation. You can either use the whole 15 minutes or else give a shorter brief and then there will be questions and comments from each of the caucuses. Please identify yourself and then proceed.

Mrs Blais: I would like to thank the Chair for giving me the opportunity to speak today. My name is Bev Blais and I am a full-time resident of Collingwood. I am also a taxpayer, a concerned citizen, a consumer, a lifetime Ontario resident and a Canadian. I spent 20 years in the retail printing business in Toronto before we moved to Collingwood. My presentation, by the way, today is on behalf of myself and my husband.

I was encouraged to speak to you today because my husband and I were recently involved in the Sunday shopping issue here in Collingwood. We worked in support of the merchants' presentation and we submitted a letter to Collingwood council on the matter. It reads in part as follows, with some updating and additions relevant to the discussion today:

I spoke with three members of our community and I was amazed at what I heard. One person was a newcomer to the area and obviously very financially independent, while another was equally well off but had made his fortune in this area over the years, and a third person, born here, was financially capable of having air-conditioning installed in a fairly modest home. All of them spoke of how great life in Collingwood was and how they would not want to see our town change. They spoke of the good fortune which brought them here, and the amazing part is that all of them, without prompting, pinpointed the reasons for their success to factors of change and their capitalization on those changes.

Last Monday after work I watched the proceedings of the business of our town on the local channel, as I often do. It was striking to realize that here I was watching council proceedings on TV in the comfort of my home and what a marvellous example it was of change, particularly of interest to those who have watched local politics over the years. At the same time I considered how fortunate we are to have so many of our citizens willingly give of their time to manage our affairs. Most of these unsung heroes spend their evenings and many Sundays working to make our community work for all of us.

I was also impressed by the complexity and the workload that is processed by our town volunteer administrators. It occurred to me how difficult it must be for each person on the council to see far off in the future or far off in the past. In words which have become familiar, "It's impossible to see the forest when you're surrounded by all those trees." A part of the forest referred to is the need all communities have for the creation of a sound program of changes which will be compatible with the needs and aspirations of their citizens while guarding us against regressive or other factors which threaten what has already been achieved.

Changes take place all the time in response to the needs and aspirations of citizens everywhere, and these changes will affect us whether we want them to or not.

Take as an example the change which has taken place in the overall attendance at churches and synagogues in Canada, from 55% of our population in 1965 to 41% in 1975 to 32% in 1985. Some churches have succeeded in staving off this negative trend and they have achieved this by adapting to our changing society. Among other things they have extended their services to times other than Sunday morning, because they found some of their parishioners were busy doing something else at this traditional worship time. That something else might be recreation, family trips, spectator participation, volunteer duties, gainful employment or employment in the sector to provide others with rest and relaxation. These churches have

learned that the traditional times no longer apply to a majority of their parishioners.

Here is a national statistic which applies directly to the subject of our discussion, yet this significant drop took place mostly before Sunday shopping became an issue. It took place, however, concurrent with major increases in the Sunday availability of activities such as spectator games, theatre, fine dining and other recreational pursuits. Sunday obviously lost its exclusivity as a Lord's day for millions of people.

Sunday shopping was introduced for a short while and millions more took it up, out of convenience or as a new recreational activity. It was again obvious that folks in general were quite willing to extend a clear-cut trend of treating Sunday as just another day.

The Sunday preservers were clearly losing the battle for a commercial-free Sunday. A new angle was called for. It seems now that the way to preserve the sanctity of Sunday is to take the leisure angle and declare Sunday a common pause day; that is, a day where everyone could take a break from the hectic pace of earning a living.

Everyone, you say? Well, not quite. A lot of folks will have to work in order to provide the many services which will be required to keep the common pausers busy on Sunday. Add to that the claim by futurists that our society will become increasingly leisure-oriented and it translates into the fact that more and more people will have to work on Sunday. The irony of having a common pause day declared on a day when there is an increasing number of people who are willing to work by need or by choice makes it a pretty ludicrous proposal.

Sunday is a Lord's day for some people, a leisure day for some people, and a work day for some people. It is clear that Sunday is a special day, but it is equally clear that what is special about it is increasingly varied and impossible to legislate. In fact, I believe it is unjustifiable and offensive that any group or our elected officials would be presumptuous enough to dictate to all of us the day of the week when we must pause from work, and at the same time make exceptions to the rule for half our neighbours; to dictate to us that we can buy a decorative clock in a craft shop, but we cannot buy a practical clock in a clock shop; to dictate to us that we can be willing workers as sellers of milk and bread in one type of store, but that we cannot work at selling milk and bread in a different store; to dictate to us that we can work at cleaning carpets on Sunday, but that we cannot work at selling those same carpets in a store. It sounds very archaic and unjust.

To some people, the prime purpose of a pause day is to protect the workers from being forced to work on Sundays. What workers would be so protected and on what factual basis is this kind of protection shown to be so necessary? Thousands upon thousands of other workers do not have this protection against Sunday work, so what makes certain workers in the retail sector so deserving of this protection? In fact, is it truly protection? Is it protection to the student who could benefit from a job on Sunday which might make the difference between a college education or not? Is it protection to the retail sector worker who moonlights by working a second job on Sundays?

You do not need to be visionaries to see that a pause day will become another one of those laws that people will hold up to ridicule as another example of the political tail wagging the dog. If there is evidence of workers requiring protection against the employer, then legislation providing this protection should be enacted under the Labour Relations Act. It should not be the main platform for enacting something as useless as pause day legislation.

I believe that events and trends of the times speak in favour of less control on Sundays, or on any day of the week for that matter. I suggest that Sunday is as good as any other day for carrying on the necessities of living, whether it be worshipping in church, playing squash or golf, participating in cultural events, working as a volunteer for political or charitable purposes, or working and earning a living.

I suggest therefore that Sunday be deregulated. I suggest that the natural forces between needs and wants be the determining factor of what businesses are opened or closed on Sundays. I suggest that demand and supply of labour be the governing factor controlling Sunday work, just as it is for Saturday or Friday or any other day.

I suggest that our legislators seek to liberate us from rules and regulations such as the pause day, which is regressive and for an unclear purpose, complex to enforce and for undetermined benefit.

1510

Mr Sorbara: I enjoyed your presentation. I thought it was an articulate statement of the problem. Would you agree with me that under the rules proposed under Bill 115 the real result, the objective result, out in the marketplace is that the stores where the middle-income people and the upper middle-income people want to shop will be available somewhere within a reasonable distance on Sunday and the stores where the man or woman who is struggling just to pay the rent will be generally closed, and that it is terribly ironic that the New Democratic Party, which professes to be the defender of the poor, is forcing them not to have the opportunity to shop on Sunday while the rich and the affluent can find a store, whether it is a boutique or a Becker's, to shop at?

Mrs Blais: I can only speak on behalf of myself and my own opinion. Yes, if you are talking about the Woolworths in comparison with—

Mr Sorbara: High-end fashion stores.

Mrs Blais: I am thinking of the one in Toronto down at Steeles and Kennedy Road, the garden centre, which is like a Simpsons. You can go there on Sunday but the prices are very high. It services the market that can afford to pay.

Mr Sorbara: But the Woolcos are going to be closed.

Mrs Blais: But Woolco is closed, yes.

Mr Carr: I think more than anything else I was impressed by the fact that you take the time to go to municipal council to watch it. That is not always easy to do, to sit and listen to politicians like us sometimes, and I appreciate that involvement. This province would be a lot better off, regardless of where you stand on the issue, if more people

were involved. It was nice to see you take the time to come out.

One of the questions I have relates to what you see happening. You are obviously, by your presentation, very bright and articulate it very well. What do you see happening in the province, knowing the tourist exemptions? Do you see us, when we get through municipalities dealing with this, having wide-open Sunday shopping eventually, or do you see some communities closed down? Do you see a checkerboard of some municipalities open and some closed? I was interested in what your thoughts are, where you see this whole thing going.

Mrs Blais: If this legislation goes through?

Mr Carr: If this present legislation goes through as it is.

Mrs Blais: It is going to be nothing but a huge mess that is very costly to the taxpayers and—I would say destructive is a very strong word—certainly not encouraging to the economy of the province in any way, shape or form. I think we will end up with a lot of lawsuits. I think we will end up with tremendous division within the communities. I think we will end up with so much bureaucratic red tape, and people judging people. Everybody is going to be a judge.

Mr Fletcher: Thank you for appearing before us today and taking the time. I just notice that you said it is unjustifiable and offensive that our elected officials should tell us when we can work and take a day off. When you were watching television of your city council, your elected officials, did you not find it strange that they were passing an act that would tell you when you have to work? It is the same thing. One group is saying, "We want a common pause day." The other group is saying, "No, you have to work."

Mrs Blais: I am not quite sure what you are talking about. I have not seen anything on council that says when I have to work.

Mr Fletcher: When they pass their tourist legislation that allows for wide-open Sunday.

Mrs Blais: That did not tell me when I have to work.

Mr Fletcher: It did for some people, but maybe not for you.

Mrs Blais: It gave the shops the right to open and it gave—

Mr Fletcher: The people who work in those shops have to work there.

Mrs Blais: Have you ever tried to tell a child or an employee what to do? Either one, they do not—

Mr Fletcher: I have done both.

Mrs Blais: It is very clear that there is more protection for the employee than there is for the employer, a great deal more.

Mr Fletcher: I read a quote from a previous Liberal member on Bill 114, which was supposed to protect them. He is saying there is no protection for workers. This is from a previous member on the committee on Bill 114.

Mrs Blais: I do not know. I spent 20 years in management. Protection for the employee is expensive.

Mr Fletcher: I agree with what you are saying. You may have been benevolent, but not every employer is that way.

Mrs Blais: I am not saying I was a good employer; I am saying the protection for the employee was all around them, and the larger the company the bigger the department to look after the employees' rights.

ONTARIO HOTEL AND MOTEL ASSOCIATION

The Acting Chair: Now we will call on the Ontario Hotel and Motel Association. I would like to thank you for coming here today. The format is that you will be given half an hour. You can give either a half-hour presentation or a briefer summation and then allow time for questions or comments from each of the caucuses. Please identify yourself and then proceed.

Ms Whitely: My name is Lisa Whitely. I am here representing Zone 12, which is a large region of Ontario's vacation land. I am general manager of Muskoka Sands Resort in Gravenhurst. I can speak on their behalf for the tourism industry.

The Ontario Hotel and Motel Association was incorporated in 1925. The current objectives of the association are to represent the hotel, motel, food and beverage industry in government and legislative matters; to provide means for members to exchange information on problems and new ideas—we can speak collectively for those members on this subject; to review industry trends and develop forecasts; to provide educational programs and services; to provide guidelines for accommodation and operating standards in the industry; and to act as a focal point for organizing joint efforts among members for the solution of industry problems.

We respectfully request that members of the standing committee on administration of justice consider the following:

First of all, that Ontario encourage tourists and visitors by having unrestricted retail shopping on Sundays and holidays in all areas throughout the province as the market dictates without any restrictions. The Ontario Hotel and Motel Association is in favour of unrestricted Sunday and holiday shopping. We feel that unrestricted Sunday and holiday shopping is vital to our economy and the tourism industry throughout the province.

In a market-driven economy such as ours, consumers should be allowed the freedom of choice to decide which retail businesses and establishments they wish to patronize. The open and free market should be the final arbiter as to whether or not retail businesses function on Sundays and holidays, while still respecting the employment standards. Unfair and inequitable legislated restrictions are the worst form of economic blackmail in a free market economy.

As well, Ontarians deserve the right to work, earn income and profit from the production and sale of goods or the provision of services any day of the week. Economic prosperity generated in a free and unrestricted economy would benefit all Ontarians and their quality of life.

Retail shopping is an integral part of the tourism experience and represents a significant portion of the value of all tourism expenditures in Ontario. Most retail shopping, dining out, touring, sightseeing and recreation takes place on weekends. Shopping has become a family outing and the majority of Ontarians and visitors favour retail shopping on Sundays and holidays. The popularity of cross-border shopping shows that Canadians will travel to the south not only because they perceive the products to be cheaper, but also because of the ease of access to these goods.

This industry is the largest private sector employer; the service sector accounts for 70% of all new jobs. Tourism is responsible for the creation of 32 full-time jobs for every \$1 million in tourism expenditures. We employ professionals, skilled and unskilled, and are the largest employer of women, youth, indigenous peoples and visible minorities. There is no other employer capable of this range of employment opportunity for permanent or part-time employees of professional service staff whose educational achievements vary from elementary through college to university.

1520

Tourism generated direct expenditures of \$15.5 billion in 1990, with an estimated total income of \$22.5 billion and estimated total sales of \$36.9 billion. It is one of the nation's largest generators of personal income, corporate, property, business and sales taxes to all levels of government, including \$1.85 billion to the province of Ontario, \$2.5 billion to the federal government and \$300 million to municipal governments in 1989.

The closure of retail businesses on Sundays has meant job losses to many, especially students who rely on this income for their schooling. Our members throughout the province are reporting a large drop in business. They feel strongly that the availability of Sunday shopping will alleviate slightly the slumping economy. Of our members surveyed, 75% have said that closing the stores on Sundays has meant a decrease in revenue. We recognize that other factors have also contributed to the decrease in revenue, but feel that the freedom of choice to open and work at retail businesses on Sundays and holidays is a means to reverse this problem. This revenue, to quite a few, means survival. Unless retail shops are allowed to open on Sundays to draw tourists and visitors to their respective areas, many will have to close their businesses.

Obviously the hardest-hit areas are the border cities. Ontario will remain uncompetitive and continue to lose billions of dollars worth of annual tourism sales unless we change and allow unrestricted Sunday and holiday shopping.

The hospitality industry is faced with many obstacles and increased operating costs. In order to remain competitive and recapture some of the lost business from our neighbours to the south, we must have the ability to compete on a level playing field. Bordering American cities are wide open for retail business on Sundays and holidays.

Bill 155 does have some merit, and we appreciate the Ontario government's recognition of the value and importance of tourism in this legislation. We do, however, feel that interpretation of the tourism criteria would create a lot

of confusion, not to mention an administration nightmare in time and cost. To limit the time for municipalities to declare themselves tourist areas is also too restricting, as circumstances could, and most likely would, change at a later date.

The concept of a common pause day in Ontario is outdated and discriminatory. Multicultural Ontario in the 1990s is populated with every religion and every ethnic background and to allow one faith, belief or ethnic custom to dictate the lifestyles of everyone is wrong. Our contemporary society shows that Ontarians work at all hours of the day and night throughout the week. Hotels, hospitals and transportation, to name just a few, all must work on a 24-hour, 7-day-a-week basis. While some people rest, others conduct business and provide services. Their professions are a necessity to any community, and I do not believe their quality of life is diminished by their work schedules. We must provide these products, experiences and services to our customers when they want them or risk losing them to other competing jurisdictions.

We appreciate that the proposed amendments to part XI-B of the Employment Standards Act recognize the operating realities of our industry. It is most important that all employees retain the right to schedule work and dictate work schedules. It has been reported that out of more than 10,000 inquiries and complaints registered with the employment standards branch of the Ontario Ministry of Labour in 1990, fewer than 15 were related to the right of retail workers to refuse to work on Sundays and holidays.

In closing, I ask that you bring Ontario forward and that we become once again the province to lead. We have a tendency to live in the past, remembering how mother was home to greet us when we returned home from school, but we all know times have changed and we must also change, not only to keep up with the times but to take the leadership role in this changing society.

What happened when stores were allowed to open on Sundays? Has the public been asked, both workers and shoppers? How many people already have to work Sundays? What would happen if service stations closed on Sundays? We are constantly being told we live in a free world where we have freedom of choice. The freedom of choice to open retail outlets on Sunday is not a luxury, but a necessity, because to many it will mean survival.

I appreciate having the opportunity to speak on behalf of the association.

Mr Daigeler: Thank you for coming before us. You were referring to changes obviously taking place. I am wondering whether that has also often happened with regard to your organization, in your own view. Two or three years ago there were similar hearings across the province. The message at the time seemed to be quite different. I am just wondering how you yourself view the municipal option that was put forward by the Liberal government. Also, would you know what kind of representation the group you are representing today made at the time?

Ms Whitely: I do not know what they did three years ago. I know our local municipality was against Sunday shopping and is still divided on that, which from a tourism

point of view seems quite absurd in that particular region. That is where all the revenues are generated.

Mr Daigeler: Is it possible to ask you how you viewed that at the time?

Ms Whitely: I am not familiar enough with it to answer that.

Mr J. Wilson: Thank you for your presentation, Ms Whitely. Near the end you mentioned a statistic that there were 15 complaints reported to the Ministry of Labour during the unregulated period last year. I guess that is over that eight months or seven months we had. First of all, would you be aware of complaints in our area, in Zone 12? Would the OHMA and yourself normally be aware of those complaints, and if so, did we have many?

Ms Whitely: I do not know if they are aware of any further details than the information they received from the Ministry of Labour. I am not aware of any complaints regarding work scheduling or working on Sundays in my particular resort or any other fellow colleagues.

Mr J. Wilson: Okay, I appreciate that.

Mr Carr: Thank you very much for coming in. One of the statistics I was interested in was the one where you say 75% of your members say that as a result of Sunday shopping there is increased activity. What do you say to a government that says it knows better than your members and that there is not any more economic activity?

Ms Whitely: I guess we prove each other right or wrong. That is the general feeling, though, among the members who were polled.

Mr Fletcher: Just one point on what you are talking about, the surveys: When you ask people if they like to shop on Sunday, there is an overwhelming yes. That is not debatable. But when you turn it around and ask people, "Would you like to work on Sunday?" about 70% of the people say no. That is just a clarification. It is strange that two years ago, when they were going around the province, people were saying, "No, we don't want Sunday shopping," and yet the government of the day did not listen and implemented the municipal option, which opened up wide-open shopping. I am glad to see you are here because I need your views. I believe there are going to be some changes to this legislation and it is because of people like you who are interested. You come with alternatives, not just to say it is totally wrong or anything like that. I know you see some of the benefits of having some legislation. I am very happy that you are here.

Mr Mills: Ms Whitely, I am very glad to be here and to hear your submission. I would like to tell you that the regulations are draft regulations and that we are listening in this process to what everyone has to say.

Having said that, I would like to say a couple of things. You spoke of freedom of choice. In today's society we demand freedom of choice. Speaking on behalf of the government, I think Bill 115 is all about freedom of choice, the freedom of retail workers to refuse work without fear of some repercussions on that. I think you also addressed very well the need for this legislation when you say there were only 15 complaints under the present legislation.

Talking to many people in the retail trade, my information on why we have had only 15 complaints is that the retail worker, under the present legislation, is very reluctant to complain, because he or she needs a job. If they complain under the present legislation, they know the chances of keeping that job are very slim. I would just like to pass those thoughts on to you about what this bill is all about. It is not about Sunday shopping; it is about Sunday working. That is the thrust of the government.

The Acting Chair: Ms Whitely, on behalf of the committee, I would like to thank you for your presentation today.

Clerk of the Committee: I will just mention that there was a request for some information from the Ministry of the Solicitor General, clarifying real estate offices. I am now in possession of that. For any member who would like to come and look at it, I will table it with the committee.

Mr Poirier: Would Reverend Wilson, if at all possible after coming here, be interested to speak for five or 10 minutes, or even less than that? I know we have to leave around 3:30.

The Acting Chair: No problem.

1530

DOUGLAS WILSON

Mr D. Wilson: I am Douglas Wilson, minister of the Christian church. I have no brief prepared, but I do have some deep feelings on this matter that is before us today, just as I did before the town council which met on July 22, passed at second and third reading, supposedly after hearing briefs from people in this community, briefs that were largely prepared and overbalanced by the business industry in this community.

Those of us who had something to say concerning one pause day—I prefer to call it the Lord's day; you may call it what you wish. I prefer to call it that, but those of us who did were heckled at that meeting. I suggested that we are in a moral decay in our society today. Someone talked today about the dinosaurs. Certainly, they have disappeared. Someone has also spoken about the decay of Rome. We all know what happened to that great empire.

There have been many illogical arguments presented here today, some of them from silence, but the biggest argument I see here today is the argument of freedom of choice, freedom of choice used by those who presented prepared briefs. They forget that there is a large segment of our society that would like to have a common pause day. There is a large group of people who would like to have time with their families, whether it be on Saturday, Sunday or Monday.

I spoke to you a few moments ago about the decay of morals in our society. At the town council, I spoke about the report just released that evening concerning 52 murders in the city of Toronto in the present year. The report said almost double. There were 29 a year ago. We all, I am sure, deplore the rising incidence of crime in our community—robberies and theft, rape, murder, those things that are happening here in the little community of 12,500 people, even in the first year when I came here, which was 15 years ago, the murder of a police officer.

What is the reason for this decay? Are you, the members of the Legislature, interested in finding out the true source of it or are you willing to give in to the greed and the avarice of business, a term I used two weeks ago and continue to use, greed on the part of merchants in this community who are not satisfied with their portion of living but want a greater increase in it?

Freedom of choice? I would like to have freedom of choice, but am I allowed to go out from this building today, take my car and drive on the left side of the road, regardless of all other motorists who are driving in this community? Freedom of choice? Why are two men who are recording artists here today forced to depart from this building to go outside to smoke? They do not have freedom of choice.

We are being legislated on all avenues. Laws are necessary, and I feel that the sooner our government, whatever the political party, begins to legislate and take the responsibility that is placed upon it by the constituent members of the communities in which you serve, the quicker our community will begin to improve and the better will be the way of life that we have cherished in the past, in the times of our fathers and our forefathers, times when there were laws, and these laws have not changed. All of us are going to have to answer to them one day—perhaps too soon.

Mr Carr: One of the questions I have is from the standpoint of, are you more concerned about the workers having the time off, or is it also the people who would be doing the shopping? Presumably, if you follow it by the Bible, it is also even people who are shopping. Is that your big concern, or is it more for the workers that you want to have the pause day? In other words, do you see it as wrong even for the people who go out and shop, who may see it as a leisure activity?

Mr D. Wilson: There are certain works that are necessary every day of the week, works of mercy, works of necessity, certain things that must be done, but I also believe there is a need for the worker to have time for common pause. I believe it both physically and spiritually and I feel that one of the reasons our civilization is rapidly

decaying today is because we do not take that time to pause, to rest. As the native of Africa would tell you, he sits down periodically to allow his soul to catch up to his body. I believe that is vital and important in our society, in your life and in my life today.

Mr Carr: Would that mean also then that you are in favour of not having theatres open and going to bars and being able to drink beer at baseball games? Would you like to see those closed down as well?

Mr D. Wilson: I would prefer that we limit business as much as possible.

Mr Mills: I was very glad to hear what you had to say this afternoon. I would just like to preface with something I said in the Legislature on June 17 and then invite a quick response from you. In the Legislature on June 17 I said, "The times are laced with a fair dose of broken marriages, broken homes, tension and stress, and a common pause day will go far to relieve some of those things I have touched on." I realize, sir, that in your capacity as a minister you probably counsel people in troubled times. I just ask you briefly to say in your experience how you feel the times we live in, with the pressing for two jobs, is affecting some of the parishioners you see on a consultative basis.

Mr D. Wilson: Mr Mills, I would support anything that would allow our people, all peoples, to have that common pause day. I feel it is necessary that we have that. In my role as a professional minister I counsel many people, and the first thing I discover is that these people generally have little or no basis in the finer things of life. One day is the same as another to them.

The Acting Chair: On behalf of the committee, I would like to thank you for your submission today. I would like to thank the town of Collingwood for hosting the standing committee on administration of justice, for having us here today. Seeing no further business, I will move adjournment until Tuesday, August 6, in Thunder Bay, at 9 am.

The committee adjourned at 1540.

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Official Report of Debates (Hansard)

Tuesday 6 August 1991

Journal des débats (Hansard)

Le mardi 6 août 1991

Standing committee on administration of justice

Retail Business Establishments
Statute Law Amendment Act, 1991

Comité permanent de l'administration de la justice

Loi de 1991 modifiant des lois
en ce qui concerne
les établissements de commerce
de détail



Chair: Drummond White
Clerk: Lisa Freedman

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Tuesday 6 August 1991

The committee met at 0904 in the Valhalla Inn, Thunder Bay.

RETAIL BUSINESS ESTABLISHMENTS STATUTE LAW AMENDMENT ACT, 1991

LOI DE 1991 MODIFIANT DES LOIS EN CE QUI CONCERNE LES ÉTABLISSEMENTS DE COMMERCE DE DÉTAIL

Resuming consideration of Bill 115, An Act to amend the Retail Business Holidays Act and the Employment Standards Act in respect of the opening of retail business establishments and employment in them.

Reprise de l'étude du projet de loi 115, Loi modifiant la Loi sur les jours fériés dans le commerce de détail et la Loi sur les normes d'emploi en ce qui concerne l'ouverture des établissements de commerce de détail et l'emploi dans ces établissements.

The Acting Chair (Mr Cooper): I call this meeting to order. For everybody's information, we will have simultaneous French and English translation. The units are just off to the left of the table. Channel 3 will be amplification, channel 4 will be English and channel 5 will be French. Mr Waters will be joining us on the committee today, and I would like to bring to everybody's attention that we have Shelley Wark-Martyn, member for Thunder Bay and Minister of Revenue, also joining us today.

JACK G. MASTERS

The Acting Chair: I would like to invite the mayor, Jack Masters, to be our first presenter. You will be allowed one half-hour. You can give either a full half-hour presentation or you can make a shorter presentation and allow questions and comments from the members of the committee. Could you please identify yourself for the record and then proceed.

Mr Masters: Thank you, Mr Chairman. My name is Jack Masters. I am the mayor of the city of Thunder Bay. I do not intend to take a long period of time. I understood that one of the aldermen also wanted to appear before the committee this morning. The first thing I would like to do is to welcome the committee members to Thunder Bay. I think it is important that the government has chosen to hold hearings in various parts of the province to receive views on this most important subject. Alors, bienvenue à notre ville. C'est un plaisir de vous voir ce matin. I thank you for bringing all the sunshine on the weekend. I know some of you arrived yesterday.

I preface my remarks by making it clear that the following are my personal views, but I think to some degree they will reflect the views of some members of council as well, and probably of some members of the community. Rather than deal with the amendments—I hope you will not rule me out of order on this; I do not think that you

will—I would like to comment on the principle of the present legislation, with or without the amendments. I can recall making similar comments to the previous government, so my position has been consistent, as has been the position of the Association of the Municipalities of Ontario.

It is my belief that the retail business establishments act should be a provincial law, a law that applies to all parts of the provinces. To have communities give their own interpretation of what tourism is, to me, invites confusion. To try to define a border city is also an invitation to a form of chaos in the marketplace. Not having a universal law means we go back to the time when we will see the very distinct possibility of municipality being pitted against municipality.

In our community, as an example, when night shopping was not allowed, a bordering smaller municipality elected to have night shopping. A large shopping plaza was built in this neighbouring municipality, which in turn eventually led to night shopping being allowed in the larger community of the then cities of Port Arthur and Fort William, now Thunder Bay. This situation was possible because of the lack of uniformity of the law in Ontario.

There is also a bit of an analogy to be drawn from the period when the province was moving into liquor licensing for restaurants and bars. That, in its time, led to the same kind of competition, where the action of one municipality being competitive with another eventually changed the situation, despite whatever the intent of the government of the day was.

The fact is that lifestyles have changed dramatically over the last number of years. I do not believe it is in the business community's interest or in the province's interest to leave it up to the various municipalities to make their own definitions of shopping hours or days that can be used by the business community. Whatever the law is, it must be a universal law. In England, as an example, they do have many restrictions on what we commonly call Sunday shopping, but at least those restrictions, as far as I can tell from having been there, have been legislated by the national government and apply universally throughout the British Isles. They seem to have made their own definitions as to what tourism areas are, rather than leaving it up to the various communities in the various areas of the British Isles. While people may disagree with that legislation, in England they can go to one source, at least, and make their complaint or give their views, but with the full knowledge that whatever law is in place, it is the same for everyone.

There has been the opinion expressed that because municipalities determine what they feel is the tourism area or whether or not they are in fact a tourism community, they expose themselves to the possibility of litigation by both those for, as well as those against, Sunday shopping. I do

not know much on this subject, and I do not know if it is accurate, but I will leave it to you as a committee to determine that, and our own council is examining the matter.

Indications are that the bill itself is not going to satisfy the needs of Ontario, and it seems to me that it is unnecessarily cumbersome. Rather than the proposed Retail Business Holidays Act amendments, it is my suggestion that the act itself and the principles should be reviewed more fully and thought out again. As you go about the province, I am sure you are going to find differing views on the subject.

I believe parts of the amendments are appropriate. Those amendments deal with the legislation concerning working hours and the right to refuse work on holidays and Sundays. I do believe there is still room within legislation to have some restrictions, but to simply say that a community can have Sunday or holiday shopping because it is a tourist area invites many bizarre thoughts, to my mind.

Saying the present legislation would somehow serve the border communities is another thing that should be thought about. What is a border community? We are 32 miles from the border; Toronto is probably double that from the border. Are they a border community? One of our neighbouring municipalities, Nipigon, is 75 miles from Thunder Bay. Does it not qualify as a border community?

The point I am trying to make is that I think the present legislation is confusing. It will lead to a lot of gamesmanship. I do not think it will solve the problem. I am entirely sympathetic with the notion of a common pause day, and there was a time I would have argued far differently, but I think it is like trying to stem a stream that is in high flood—next to impossible.

0910

People seem to like the idea of having the opportunity to shop. That does not mean you are legislating anyone to open their doors. You can withhold or withdraw services if you are in the business community.

I often have felt hypocritical in that area. As a principle, a personal view, I have always said, because I guess I have spent a lot of time in the retail community: "We don't need Sunday shopping. We have all kinds of time to shop." Yet on vacation in Alberta, where I have a daughter, I spent a lot of time on a Sunday afternoon out shopping because shopping happens to be something we do as a pastime. It seems to be one of the great Canadian pastimes these days.

It is fine to say we will allow shopping for tourism purposes. What do we mean by "tourism"? We would consider, in a sense, those people who live in Nipigon, at Scriver Bay, at Terrace Bay or in Dryden who wish to shop in Thunder Bay because it is the largest city in the area. They come in on the weekends to shop and do other things to be entertained. Therefore, are they tourists or are they just people coming to do commercial-type things in our area? How do you define that?

In the fall I think we will be voting in Thunder Bay in plebiscite form on the question, basically, "Do you want Sunday and holiday shopping?" I oppose that. I did not oppose that particular plebiscite coming up, but I did oppose the idea of our dealing with the Sunday shopping

issue at the present time for two reasons: Not being sure of what the provincial government would put in place, are we going to deal with something that will be changed somehow anyhow? And second, I still fall back to the same position I have always held and that the Association of Municipalities of Ontario holds if it could have its druthers, that the law should be universal.

Ladies and gentlemen, I know you are going to be hearing from a good number of people today. I did want to have the opportunity to make my personal views known, and I thank you for it. I do not think we can dissuade the general public from wanting to be able to shop any more than we can suddenly turn the clock back and say, "We're going to close most of the restaurants, or we're going to close the hockey rinks on Sunday." I went through that issue many years ago, being something of a hockey nut. I could remember the days when we could not play hockey before noon hour. You could not rent out the facility. At one time you could not sell tickets before 2 o'clock, so you began a football game or a hockey game by having a silver collection.

Times have changed. I think we have to recognize those changing times. We have to be consistent throughout the province. I would salute the government of the day if it thought of a way to review the law to maintain some restrictions, and if it carried through amendments that would allow for freedom of choice for the workers, whether or not they work on certain days without being penalized for it. I think those are worthy objectives. But the principle of the bill itself, giving it to the various areas to determine whether they are going to be tourism areas, to me is an invitation to confusion, a lot of hard feelings throughout the province, and a great deal of potential litigation over time as the inevitable struggles begin to happen. I thank you very much, Mr Chairman, and the committee, for allowing me to make my comments. If there are any questions, I will try to answer them.

The Acting Chair: Thank you very much. That allows about six minutes for each caucus. We will start off with Mr Sorbara.

Mr Sorbara: Thank you, Mr Chairman. Your Worship, thank you very much for your presentation. I am interested to hear that you are going to have a plebiscite on the matter coming up in conjunction with the municipal elections. I have a prediction that the people of Thunder Bay will probably, through that plebiscite, want you to pass a bylaw which allows stores to open or close at their choosing. You supported the AMO position, which is that the province have a standard law, or one rule, in respect of Sunday shopping throughout Ontario. But one possibility as a standard law is that there be no law at all, that is to say, that Sunday not be given a special status within the laws of the province of Ontario. Your Worship, how would you feel if the law were simply repealed? In other words, if we were to go back to that eight- or nine-month period when there was no law? Did that create confusion and havoc in Thunder Bay? Would that be a terrible course for the province to go down at this stage in its development?

Mr Masters: I do not think it would be a terrible thing to happen. While we had that period where Sunday shopping was allowed, it certainly did not create any big problems. What it did cause was the problem of the worker. For that reason, whether you do it through this type of law or incorporate it in something else, I think that should be looked at very carefully.

Mr Sorbara: I think all of us on this committee agree that no matter what the store opening hours or store closing laws are, we want to move forward with protection for workers. Let us hear your experience in Thunder Bay during that period. What effect did that freedom to choose have on the people? What effect did it have on store owners? Were the hours on Sunday the same as the hours on every other day? How did it play out in Thunder Bay?

Mr Masters: If my memory serves me correctly, basically they stayed open, those that wished to stay open, the department stores or plazas, from noon to 6 pm. I believe the commercial experience was, overall, that they probably did at that time the same amount of business on the seven days that they did operating for six. But what they did find was that it did accommodate, particularly, the out-of-town people who wished to come to our community to do their shopping, to take in the community auditorium or a hockey game or whatever. It did accommodate them, and probably encouraged people to stay over for a longer period of time, which had an overall benefit to the community.

Mr Sorbara: As mayor, if someone is unhappy about something, you hear about it. During that nine-month period, did you hear a lot of complaints from store owners, from shoppers, from ministers, from churchgoers? Did you hear complaints of any variety about the fact that the stores were opening?

Mr Masters: No, not in an overwhelming sense. You are right, you do hear about it. The phone is very handy in your own community to your citizens. No.

Mr Sorbara: The government is proposing a piece of legislation which will only allow those stores to remain open which are for the maintenance or the development of tourism. Are there stores in Thunder Bay which are only for the maintenance and the development of tourism? Or are most stores which have a good indigenous business and some, sometimes a lot, of tourism business?

Mr Masters: That is the point I was trying to make in my brief presentation. You now have to come up with definitions of what is tourism. If someone wishes to come into the area and is going to buy an automobile, look at some furniture and buy groceries, and he has travelled in from the area, he may not have purchased any T-shirts or amethyst, which is the gem stone of Ontario, but is that a tourist? I do not know. That is what happens when you try to use that as the criterion for staying open.

0920

Mr Poirier: Premièrement, je voudrais vous dire «merci» de nous avoir accueillis de façon bilingue à Thunder Bay. C'est le souvenir de Thunder Bay que je préfère me rappeler.

Having said that, Mr Mayor, thank you for having welcomed us to Thunder Bay. It is the souvenir I would rather keep of Thunder Bay, having been here many times and having many friends, anglophones and francophones. How would you feel if you were mayor and city council had to decide who is touristic or not?

Mr Masters: I think I would have a great deal of difficulty in deciding that particular issue because, as I have said, you may be coming in from Geraldton to Thunder Bay specifically because you need a new dining room suite. You are here acting as a tourist in that you have purchased meals, you have taken in entertainment, you have taken advantage of our beautiful waterfront and all of those things, but you also wish to buy a dining room suite, so do you allow a store to open and say, "Technically, we think you are a tourism facility"? That is what bothers me most about this legislation and the notion that it can somehow be relegated to tourism only. I have trouble with the definitions.

Mr Poirier: So it does not make sense. Thank you.

Mr Carr: The question I have relates to what you see happening in your community if the law remains in place with no changes. You said the people will basically be voting on it, presumably whichever way they will be going, and the new council will support that.

Mr Masters: I would think so, yes.

Mr Carr: The way it is now, the definitions of tourism are such that a fine community like this could meet the criteria very easily. In other words, what you see happening is that the people will decide and then the council will follow and, if the will is to open, it will say, "You meet the criteria," and away we go; and if not, it will vote against. Is that particularly the way you see it happening?

Mr Masters: Exactly, and I do not know what will happen from the governmental point of view if—using the arguments I made earlier—we suddenly say, "Okay, now the people want this kind of shopping, so we are now going to declare the whole community a tourism area." It may solve that problem for us, but will it then, in turn, give the government a problem? Are they going to start making the definition of what is a tourism business?

Mr Carr: One of the things that has happened is that we have gone through this and people on both sides of the issue—the people in favour and opposed, even the big retailers who came in who want Sunday shopping—say we have to protect the workers. What is your feeling on that aspect of the law, the protection of the workers as it is now? Do you think it is strong enough, not strong enough? Have you really had a chance to look at that part of it?

Mr Masters: I looked at the amendments, and I am not an expert in that area, but it seemed to me that those amendments were going in a reasonable way to address that problem. There is the big battle that goes on, of course, whether or not a business should be allowed to operate seven days a week without getting into overtime or double time or triple time and so on. I really feel that in the service industry it would be prudent of the government to provide protection for the workers, and it does appear that

that is being addressed in the bill, which has had first reading.

Mr Carr: I know it is difficult to do, but having been the mayor of this fine community, what is your sense of what the vote will be when it comes? Do you think most people will be in favour or opposed? Maybe you can give us some idea of whether you think it is close. Is it a big debate, or is it going to be overwhelming one way or the other?

Mr Masters: My sense of it is that it will be a very large vote for Sunday shopping, and I would be surprised if it turned out differently.

Mr Carr: During this period when it was unregulated and you had opening, did you see a deterioration in the quality of life? Many people, some of the groups, are saying it will take away from people's time as a family. Did you see that to be the case in your community during that period, where for whatever reason people were being pulled apart more?

Mr Masters: That was not apparent, no. It might have had some effect on the families of the people working. That I could not judge. But in general terms in fact it may have brought families together because they could visit their shopping mall or their favourite establishment, do their business there and then continue through the day and stay together. It probably extended the weekend from a family point of view to a two-day total weekend, as opposed to one day shopping and one day just with the family. I did not see any major disruption in family life, though, no.

Mr Carr: What you were seeing too, earlier, is that as a municipality you are not interested in having a decision thrust upon you. You would rather leave it at the provincial level, just to get that clear. Is that what you were saying?

Mr Masters: I say that. I know that always sounds like a copout by the municipal politician, like, "Don't burden me with this decision; give it to someone else." I will give you one scenario. Let's say we dragged our heels in respect to Sunday laws. Then what would prevent one of the neighbouring municipalities from going for something to add to their tax base which would be attractive to them, a large mall on our border? And throughout the province we have had that history over time because of night shopping and all of those things where that is exactly what happened, as it happened here. So eventually you disrupt your marketplace and you come back to the same thing that could have been dealt with in the first place by simply—as was suggested by Mr Sorbara—withdrawing the law and concentrating on the labour aspect of it, with perhaps some curtailment in respect to shopping hours, although I think the business community itself would determine that there are some things that are not appropriate. Opening, you know, until midnight Sunday is an example. Regardless of what the law is, I do not think you would find many who would ever do that.

Mr Carr: Okay, thank you. Good luck.

Mr Morrow: Thank you, your worship, for taking the time to come and see us this morning. I imagine you have

a very busy schedule. I just have two very quick questions for you. Do you agree with the absolute right of a worker to refuse Sunday work?

Mr Masters: I am always leery of absolutes. I think there is still room in our society, whether it be Sunday, or if Saturday be the Sabbath for someone else, that they should have the ability to follow their religious or moral persuasion without being penalized. I believe that is the intent of the proposed amendments, to allow for that in one form or another. I would put that almost in the same category, although it is maybe not the best analogy to make, as not being able to force somebody to do dangerous work. Well, maybe if it is a danger to the soul, that should be given the same consideration, so I do concur basically with the kind of amendments that are suggested in that respect.

Mr Morrow: You also know we are here to listen to you, and you mentioned that you are here to basically help us in any way that you possibly can. Is there anything you would like to see change in the amendments?

Mr Masters: In the amendments, no. I realize you are here essentially to look at the amendments, but certainly all the other views will get back into the mix. Rather than just take the common pause day as the major thrust—and this may sound like a political copout, too—maybe you want a common hesitant day where you say, "All right, we will allow Sunday shopping, taking that example of Sundays 12 to 6," and restrict shopping so that at least you can maintain the Christmas Day or the New Year's Day kind of approach. But in respect to the shopping hours, I cannot see the amendments being helpful when it is probably the basic notion that has to be re-examined and dealt with.

0930

Mr Fletcher: Thank you for being here. It is always nice to be back in Thunder Bay. When you are having a plebiscite this fall the question is going to be, "Are you in favour of Sunday shopping?" Are you going to put the question: "Are you in favour of Sunday working? Would you like to work on Sunday?" Is that also going to be on the plebiscite?

Mr Masters: I doubt that, but we have not completed the verbiage beyond just the simple question.

Mr Fletcher: One of the reasons I ask that is because if you ask people if they want to shop on Sunday it is always yes, but when you turn the question around, "Would you like to work on Sunday," it is usually around 70% no. So it is a bit of a dichotomy there.

As far as Bill 115 is concerned, you do not have a problem with the bill except for the tourism exemption.

Mr Masters: I have a problem with the tourism, because I think what you are saying is, "We are not going to have Sunday shopping or holiday shopping but at the same time we will give you exemptions." I think you should do one or the other. I will confess that AMO has simply said, if my recollection is correct, that whatever the law is, it should be universal. It is up to the government to decide what that law will be, which is a form of really passing the buck. But then, those things had always been in the province of the province to handle and I think that is where it

properly should belong. I think that decision should be made by the province.

I think too that there is some urgency to reconsidering the bill, because we live in a new business world vis-à-vis north-south. That is not something that is going to change. It is not considered to be a terribly significant factor at the moment, but if you consider the amount of business that is going across the border, we have looked upon that as a retail problem. What about the people who manufacture and do all of the other things that put the goods on the shelf? It is a deep-rooted problem that will, over time, have to be reconciled by having an even playing field. I think this just gives us an artificial way to have some communities with a level playing field, and others will have to scramble to get it. Those are all the comments I would like to make.

The Acting Chair: On behalf of the committee I would like to thank you, your worship, for attending this morning and giving us your views.

Mr Sorbara: Mr Chairman, might I just bring a point of order to the committee as Mayor Masters leaves? He has advised us that the city of Thunder Bay is going to have a plebiscite on the very matter that we are considering, that is, whether under the current bill Thunder Bay should or should not be open. Although plebiscites and referendums ought not, in my view, to direct the formulation of public policy, the fact that there is a possibility that there will be a plebiscite in Thunder Bay and within a few weeks this committee will be bringing back to the Legislature for third reading and royal assent a bill that might close down all the stores that it just opened under a plebiscite in the city of Thunder Bay—I just think that when the plebiscite takes place this committee should order its business so that it has an opportunity to review in very fine detail what happened in that plebiscite in the city of Thunder Bay.

I bring that to you, sir, because our purpose in holding these public hearings is to—

The Acting Chair: That is a point of information, but it is not a point of order.

Mr Sorbara: If I could just make it in the form of a motion: that following the plebiscite in Thunder Bay this committee convene in Toronto to consider the results of that plebiscite and how it might impact on our recommendations to the government. After all, we are here to get the public view. What better way to get the public view than through a plebiscite? So I am suggesting that the committee, wherever it is in its consideration of Sunday shopping, reconvene for at least one sitting day and consider the matter and the results and analyse those results as some indication of the public mood in the province.

That is a motion.

Mr Morrow: Could we not take care of that during clause-by-clause?

Mr Sorbara: I do not think it is a controversial motion. All I am saying is that we look at the results. Rather than ignore the results, we look at them. I do not think it is a big, controversial issue. Maybe we will do it for half an

hour the day after the plebiscite is through. Is this a problem for you folks?

Mr Fletcher: I am speaking against the motion for the simple fact that we are on a fact-finding tour and the information can come in. We do not need a motion to have the information come to us. We do not need a motion to have another sitting day or anything else. Once this city has its plebiscite and the results are known, we can get that information. We do not need a motion and we do not have to waste people's time here today by making silly motions.

The Acting Chair: If I may, could we please put this off until 12 noon? We have presenters here waiting to do their presentations. Could we discuss this or debate this at noon, when we have time?

Mr Sorbara: It should not give rise to a grand debate. I am not sure what Mr Fletcher is afraid of; all I am suggesting is that we spend part of a sitting day considering what the results are in Thunder Bay. After all, our mandate is to garner what public opinion is. What better way than to analyse the results of a plebiscite? Maybe we would do that informally anyway. As a courtesy and as a gesture to the city of Thunder Bay, one of the important communities in the province, all I am suggesting is that we formally make it part of our agenda now. Is that a problem?

Mr Fletcher: Yes.

Mr Sorbara: I hope not. I hope you can support it right away.

Interjections.

The Acting Chair: Order, please. If it is the pleasure of the committee, could we put this off until 12 noon, so we would not have to hold up any of the presenters?

Mr Sorbara: I would prefer to deal with it here.

Mr Jackson: If Mr Sorbara would simply amend it to say, "Thunder Bay and other plebiscites," because they will all occur in this province on the same day, and if he would accept that as a friendly amendment, then we could call the question and we will resolve the matter in a minute and a half and we can proceed with the deputants. I think everyone is aware of the concept of public consultation as contained in Mr Sorbara's motion.

Mr Sorbara: I do accept that as a friendly amendment, that we spend one sitting day considering the results of plebiscites on Sunday shopping taken in conjunction with municipal elections. I really hope my friends across the table will support this. If they do not, I think that is going to cause them some degree of embarrassment.

The Acting Chair: Okay, I will call the question.

Mr Sorbara moves that following the plebiscite in Thunder Bay and other plebiscites, this committee convene in Toronto to consider the results of that plebiscite and how it might impact on our recommendations to the government.

Mr Morrow: Can we please have five minutes?

Mr Jackson: The question has been called, Mr Chairman. In the interests of time—

The Acting Chair: A five-minute recess?

Mr Jackson: No. I have called the question. On a recorded vote I call it.

The committee divided on Mr Sorbara's motion, which was negated on the following vote:

Ayes—4

Carr, Jackson, Poirier, Sorbara.

Nays—5

Fletcher, Lessard, Mills, Morrow, O'Connor.

0940

**UNITED FOOD AND COMMERCIAL WORKERS'
NORTHWESTERN ONTARIO REGION**

The Acting Chair: I now call the next presenters, from the United Food and Commercial Workers' International Union. Thank you for taking the time out to be with us today. You will be allowed half an hour for your presentation. You can use that time any way you wish. You can either give a half-hour presentation or you can give a shorter presentation and allow time for questions and comments from the caucuses. The time will be split evenly. Could you please identify yourself and then proceed.

Mr Fraser: My name is Mike Fraser. I am the regional director for the United Food and Commercial Workers for northwestern Ontario. At the extreme left is Dan Onichuk. He is a representative from Fort Frances. He services also Kenora and Dryden. Beside me is Gerry Morris, who is an employee of Canada Safeway. Beside me is Ed Ryma. He is a grocery clerk at Skafs Foods, which is an independent chain store here in Thunder Bay.

On behalf of over 3,000 members of the United Food and Commercial Workers, northwest Ontario region, I would like to take this opportunity to welcome you to northwestern Ontario and specifically to Thunder Bay.

Our local union represents workers in the following communities in northwestern Ontario: Hornepayne, White River, Marathon, Thunder Bay, Atikokan, Fort Frances, Kenora, Vermilion Bay and Dryden. In our region we represent employees of large retail chains as well as small independent chains and independent single-store operators.

I would just like to comment to the committee that not all the employees we represent in those communities work in retail food stores. We represent people who work in nursing homes as well as hotels such as this hotel—I am glad you picked this, as a unionized UFCW hotel—warehouses and other types of enterprises, so it is not just retail that we represent.

I am sure the names of companies such as A & P, Westfair Foods, which is Loblaw's, and Canada Safeway are familiar to members of the committee. What may not be familiar are names such as DH Foods in Marathon, Tom Boy Foods in Atikokan, Harley's Foods in Dryden or names such as Quality Market or Skafs Foods in Thunder Bay.

While this list of independent retailers is not exhaustive, it is a good example of small, independent retailers who have indicated to this union that they prefer not to be open on Sundays and holidays and support legislation for a common pause day. We believe it is in the best interests of

these employers as well as their employees, as well as the employees of large chains, to have legislation in the province of Ontario providing a common pause day. We believe, as well, this committee has the responsibility to take into consideration the legitimate needs and concerns of tourists and the tourism industry.

I am sure you are by now aware that our union has five main concerns with the proposed amendments to the Retail Business Holidays Act. These are: (1) the intent of the Retail Business Holidays Act; (2) the municipal option; (3) drugstore openings on Sundays; (4) enforcement of the legislation; and (5) the definition of a retail business.

On Monday, July 29, 1991, UFCW Canadian director Clifford Evans made a presentation to this committee in Toronto recommending certain changes to the amendments in each of the five areas listed above. I would like to state to the committee that we in northwestern Ontario fully support the recommendations made by Mr Evans to this committee. However, rather than reiterate each and every one of those recommendations, we have chosen to focus on the municipal option and tourist criteria and the concerns that we in northwestern Ontario have in that regard. The submission made by Mr Evans to this committee is available for anyone who wishes a copy.

This is contrary, I think, to what the mayor said a few minutes ago, but I believe the majority of people in northwestern Ontario, including retail employees and employers, prefer not to have Sunday and holiday openings. When the previous Liberal government introduced the municipal option, there was not a rush by municipalities to pass by-laws to allow for Sunday openings.

I should comment that recently the Thunder Bay council had a vote where it was defeated to implement the tourist exemption in Thunder Bay. I would also like to state to the committee that when the Thunder Bay and District Chamber of Commerce last year came out in favour of Sunday shopping, the retail members of the chamber of commerce were opposed to the chamber of commerce taking that stand.

The only town where we represent retail employees where this took place was in Kenora. I do not want to say a lot concerning the Kenora situation, as there are a number of presentations being made from individuals and groups from Kenora and the Kenora and District Labour Council will be dealing with the specifics of that situation in a later presentation. I would like to say, however, that I do not feel it will hurt the tourism industry in Kenora or create undue hardship for tourists in that area if large retail stores such as Safeway, Westfair Foods and Woolco, as a result of this legislation, are closed on Sundays and holidays.

When the Retail Business Holidays Act was struck down as being unconstitutional, many retailers who did not want to open were forced to open due to competitive reasons. Many employers in the northwest region contacted our office asking how they could assist us in trying to have the stores closed on Sundays and holidays. Under the proposed amendments to the act, are we going to have the same situation again?

I do not believe there is a community in northwestern Ontario that would not fall into at least two of the six

proposed categories for the tourist exemption. As almost every municipality, if not all, would qualify for a bylaw exemption, what becomes a particular concern for us in the northwest are those retail businesses which on days other than holidays use the total area of 7,500 square feet and which have eight or more employees serving the public.

Subsection 2(2) of the tourism criteria states: "The retail business establishment,

"(a) shall be in an area that meets the tourism criteria set out in subsection 1(2);

"(b) shall provide services on holidays primarily for tourists; and

"(c) shall have at least one of the following characteristics:

"1. Is recognized for its historical features or distinctive architectural features.

"2. Features items of cultural or ethnic appeal.

"3. Provides specialized goods or services, such as heritage or handicraft items.

"4. Provides goods or services necessary to tourist activities in the area served by the establishment."

What then is the definition of a tourist? Is someone who lives in Texas and has a summer home on Lake of the Woods considered a tourist? If the large chains are able to establish that they "provide services on holidays primarily for tourists," will they then be able to get around the intent of clause 2(2)(c) by making capital investments in such things as distinctive architectural features or start to inventory items of cultural or ethnic appeal and/or open a new department for goods and services necessary to tourist activities?

I think this possibility should be of particular concern to the committee, especially the effect it would have on small retailers who do not have access to the financial resources that the large chains do. While the large chains could possibly operate on a loss-leader basis, I do not think independent retailers necessarily could. In this regard, it makes absolute sense to us that a committee should be established of government, retailers, unions and representatives of the tourist industry to determine properly what the criteria should be.

This would ensure that the amendments to the RBHA do not end up hurting small retailers or allow large chains to take advantage of loopholes that were not intended, as well as ensuring that legitimate tourist businesses are allowed to open to provide services. This committee should include representatives of the affected groups and should also ensure province-wide representation by including individuals from all regions of the province, including northwestern Ontario.

I would like to take a minute to address comments made by a representative of one of the large chain stores last week on the news. This was after the first committee hearings were held in Toronto. A representative of one of the larger Canadian retail chains stated that as a result of the introduction of legislation for a common pause day, the Ontario economy stands to lose \$3 billion in sales. This claim is absolutely ludicrous. I ask the committee, if stores are open six or seven days, is that going to give Ontario consumers \$3 billion more to spend?

I think the answer is quite clear: No. I believe the claim that billions of dollars are going to be lost because of the implementation of a common pause day is an extreme exaggeration. Should someone say that we in Ontario are losing sales to the United States because of cross-border shopping, of course everybody would agree that this is true. The exact amount is unknown, but I would like the committee to look at the question of Sunday shopping versus cross-border shopping.

In Fort Frances, a border town across the bridge from International Falls, Minnesota, you have had cross-border shopping for years. However, recently the Fort Frances town council in its wisdom saw fit to reject the bylaw allowing tourist exemptions for Sunday openings. The reason I mention that is because here you have a town council that has dealt for years and years with the question of cross-border shopping and still does not believe it is necessary to implement the tourist exemption for Fort Frances.

The whole question of cross-border shopping raises a host of problems, such as the level of the Canadian dollar vis-à-vis the US dollar, higher taxes in Canada, especially federal taxes and the implementation of the goods and services tax, and the fact that prices are much lower in the United States. These are to name just a few.

Let us not confuse the issue of a common pause day and cross-border shopping. In British Columbia, where Sunday shopping/working has existed for a number of years, the fact that Canadian stores are open has not slowed down cross-border shopping. The number of trips in British Columbia increased 400% between 1987 and 1991 in spite of wide-open Sunday shopping in that province. We absolutely agree that it is necessary to achieve a solution concerning cross-border shopping, but people who say that by allowing Sunday shopping we will get rid of the problem are simply not being realistic.

In conclusion, I would like to state that the United Food and Commercial Workers Union commends the government on its support for the implementation of a common pause day and asks this committee to ensure that we have a law that is going to work in the future. Let us ensure that the criteria make sense and work in the best interests of the employees, all retailers, the tourists and the tourist industry.

The Acting Chair: That leaves about six minutes each. Mr Poirier.

Mr Poirier: Can I refer you to page 3, please? As you see, page 3 is divided into two groups. The last sentence of the top part says, "I would like to say, however, that I do not feel it will hurt the tourism industry in Kenora or create undue hardship for tourists in that area if large retail stores, such as Safeway...as a result of this legislation are closed on Sundays and holidays."

You seem to make a distinction; in this sentence you only talk about the large retail stores, whereas elsewhere in your presentation you say you have also had the support of small retail stores to stay closed on Sunday. Can you explain the difference to me, why you would only look at the large ones here?

Mr Fraser: The small retailers in northwestern Ontario, in our experience, do not want to be open. The individual sitting beside me, Ed Ryma, works for Skafs Foods, which is a small, independent chain here in Thunder Bay. The owner has made it quite clear he does not want to open on Sundays and holidays. He supports legislation for a common pause day.

The reason I am focusing on the large chains is because the large chains came to negotiations approximately three and a half years ago saying they totally opposed Sunday shopping, but they wanted to change the provisions in the collective agreement concerning double time just in case somebody else decided to open.

Then, as soon as there was a possibility that the previous Liberal government was going to introduce changes to the Sunday legislation, the large chain stores said, "Oh, we're all in favour of it." The position they had taken in collective bargaining was totally opposite to what they were saying in public.

0950

Mr Poirier: Do some of the smaller retailers not want anything to be open in case the larger ones or other small ones may open and "force" them to open against their wish on Sundays? Is that your interpretation of what you have heard?

Mr Fraser: I am going to ask Dan Onichuk to address this question as well, but I think you have basically two situations. You have the small independent retailer who is forced to work seven days a week, and does not want to have to work seven days a week; he would like a day off. The second reason is the cost of doing business. If you are open seven days, then you have an extra day of overhead and, for the smaller independent chains and truly independent operators, that increases their fixed costs.

Mr Poirier: Does that necessarily mean that he is open seven days or does it mean—

Mr Fraser: They have to open seven days a week because, if Canada Safeway and A & P are going to be open seven days, then the other people who are competing with Canada Safeway and with A & P have to be open as well. And of course A & P and Canada Safeway, being multinational corporations, are in a much better position to spread those costs over seven days as opposed to six.

That is one of the concerns we have with the criteria set out for stores with over 7,500 square feet. Are the large chains going to have the advantage of being able to invest money that is not available to the small retailers? It is quite possible, because the large chains in Thunder Bay will operate certain departments on a loss-leader basis just to attract customers. They would do the same for Sundays.

Mr Daigeler: So far at these hearings the argument has been put forward quite forcefully by retailers and business owners that, especially in a time of recession when employment is hard to come by, employees are quite keen—especially the younger ones, students—to work on Sunday, to have that extra time to make some money. Is that your experience up here? How would you react to this argument?

Mr Fraser: No, I do not think that being open on Sundays creates any more employment. In our industry, which is unionized, it does not create employment because we are able to negotiate that hours of work are assigned by seniority. But in British Columbia, where we have had Sunday shopping for many years, our union has not seen any increased employment.

Mr Fraser: May I say one other thing on that issue? I think we also have to look at what kind of employment we are creating. The unemployment rate in northwestern Ontario is higher than the provincial average and the national average. If there were any jobs created they would only be part-time jobs, and I think that we should be looking at ways of creating full-time employment.

Mr Daigeler: You mentioned that Fort Frances turned down a request to be open on Sundays which, I guess, is different from Kenora and some other regions. What were the arguments there? I am not familiar with what happened. Was there quite a campaign, and why did the city council decide against opening on Sundays?

Mr Fraser: I am going to refer that question to Mr Onichuk, as he lives in Fort Frances.

Mr Onichuk: When the question was put to the council some time ago it was rejected. The question was again put to council recently. They were looking for clarification of the new legislation, and they wanted to wait until they understood what the legislation was going to mean.

Subsequent to that the vote was taken anyway and it was defeated. I believe at this time they are waiting for clarification of the law so that they understand some of the questions we are asking, particularly on the square footage and that sort of thing. Even for the brief period when Sunday shopping was wide open in Fort Frances the only retailer in town to open was the major one, Canada Safeway. No one else opened.

Mr Carr: I thank you very much for your presentation. My question relates to what will be happening in Thunder Bay. As we heard, they will probably take a vote of the people to learn what they would like to see. If that vote favours Sunday shopping, would your group support it or will you still be fighting it, presumably against council and so on?

Mr Fraser: Our union will continue to fight so that our members do not have to work on Sundays. I think Mr Fletcher was correct when he asked whether the plebiscite is also going to contain the question, "Are you in favour of Sunday work?" because it goes both ways. If there is a plebiscite then we will deal with it when we see the results. I personally believe the results are not going to be as the mayor seems to think.

Mr Carr: You are right, you know. If you ask me if I want to work on Sunday, the answer is no, but occasionally we have to anyway. One of the concerns I have is that when Mr Evans came before our committee in Toronto, as you know, he said he was not happy with the law because the tourist exemptions were too broad and they would allow municipalities to open, there was not enough protection, it did not go far enough. Is what you are saying basically reaffirming that you are not pleased with the law,

that there is not enough protection for workers and that the tourism exemptions are too broad as it stands right now?

Mr Fraser: Yes and we are reaffirming that position.

Mr Carr: One of the other concerns that we had in some of the other examples, some of the other unions—we were down in Collingwood and the question came up. There are unionized facilities that are open on Sundays in that area. I think LOF Glass was an example. What do you say to union workers when they say, “We want rights and protections not to have to work on Sunday but our brothers in whatever the union”—whether it be auto workers or whatever—“have to work.” What would your comment be to your brothers and their unions that do not have protection and maybe would be working?

Mr Fraser: That is a good question. I am glad you asked it, because one of the things we have tried to negotiate with the chains and all retail stores over the last number of years is something called a Sunday/Monday, Saturday/Sunday combination, where we have a guarantee. In retail, the employers have agreed where possible that they will guarantee, once a month, that employees will get a Saturday/Sunday or Sunday/Monday combination—that they will get two days off consecutively. We would like to have that happen more often. The problem is that in retail it is not like industry nor it is like a hotel.

We are in negotiations for a renewal of a collective agreement for this hotel right now. The question of employees working on Sunday is not a problem because full-time employees are working during the week. During the weekends it is the part-time employees who come in and relieve the full-time. You do not have that in retail. In retail, the full-time employees have to work on the weekends as well. It is not like industry where you can have your schedule and be able to work two weeks where you have to work on weekends, then be off for three or four because you have switched shifts.

In retail you are working every weekend, with a day off in the middle of the week or at the end at the week. It is not like working a shift and having a regular rotation, because the schedule is made up every week. If you work in a nursing home you have a schedule that is set for a period of five or six weeks, so people know for the next five or six weeks they are going to be working these hours and they can plan accordingly. Once they put in a certain shift that is not a favourite shift, the next time they know they go on days, and that is when they get their weekends and their consecutive days. In retail it does not happen.

Mr Carr: Of all the groups that have appeared before us—the big retailers, the small shop owners and so on—one that has been fairly conspicuous by its absence has been people like the A & Ps and the Loblaws and so on. I notice you said they agreed with you. Do you have any thoughts on why, with something that is of such fundamental importance to them as Sunday shopping, they have decided not to appear? It might just be a guess, you deal with them every day but—

Mr Fraser: If I had to guess it would probably be because they feel their credibility is on the line. It would be difficult for them to come here. They say to us at the

negotiating table that they are going to do one thing and then the next thing you know they are telling politicians they want something else done. Halfway through all the mess when there was no law at all they were saying to us, “Yes, we should bring the law back in.” We are not even sure where they are at now. Maybe they are just trying to get their own act together and figure out where they are at.

1000

Mr Fletcher: Good to see you, Mike.

Mr Fraser: Nice to see you, Derek.

Mr Fletcher: We have been hearing throughout the presentations that if we do not have Sunday shopping, no jobs; we are going to lose all kinds of jobs, part-time jobs and everything else. Your union has been doing a lot of work on it. What do you think?

Mr Fraser: We did not see any increase in jobs. The hours are just spread out over the rest of the week. As opposed to part-time employees getting 24 hours working Monday to Friday, they end up working Monday and they have Thursday and Friday off and they work Saturday and Sunday. The hours are just shifted. Gerry works for Canada Safeway here in town. He went through when there was no law and there was Sunday shopping here. Ed works at a store where they had Sunday shopping. I think they will concur that there was not this influx of employees as a result of their employers opening on Sunday.

Mr Fletcher: Let me go to Ed. What do you think of Sunday shopping, Sunday working? What is your personal opinion?

Mr Ryma: I personally do not like working on Sunday. Not only did it not increase the number of hours of work for part-timers, but it also did not increase the weekly sales for the store. Sales just got spread over seven days rather than six. I will be starting a family soon. I do not want to have to be working on Sunday. A lot of people I work with have families. They have children who are home on the weekends, not in school. They want to be with their children. We want a common pause day where we do not have to do anything, just spend our time with our families.

Mr Fletcher: If we had wide-open Sunday shopping, and Ed just brought it up, as far as the family is concerned, perhaps our children's lifestyles would have to change to accommodate the parents. Maybe city council would have to hold their meetings on Sundays or something. You do not see that part of it. All they want is for the stores to open and not the rest of society to change along with what is going on.

Mr Fraser: There definitely could be a domino effect, where if retail stores are open, I guess they can argue that the banks should be open and that politicians should be sitting in the Legislature on Sunday.

Interjections.

Mr Fletcher: Or city council.

Mr Fraser: That creates a lot of employment.

Mr Lessard: Mr Fraser, you mentioned that retail full-time employees would be expected to work on Sundays.

Could you explain what the difference is, what is unique about the retail business that would require full-time staff to work on Sundays?

Mr Fraser: The nature of retail, the way it is operating now, is that you have full-time employees who are scheduled basically to supervise a number of part-time employees. The ratio of full-time employees to part-time in retail has been decreasing over the years. It is now probably on average 65% to 70% part-time and 35% to 30% full-time employees. So the full-time employees are there to supervise the part-time employees. Again, if there were any increase in employment, which has not been shown to be the case in places where they have Sunday shopping, if it is going to create any jobs, they are going to be part-time. One of the things that we are striving to do in retail is to create more full-time jobs.

Mr Lessard: You have also made mention of the store size criteria that are to be included in the regulations that will go along with Bill 115. I take it you are concerned about the ease with which stores that are over 7,500 square feet may fit within the tourist criteria as well. Can you give us some idea of the number of stores that would fit in that category of over 7,500 square feet in this area you represent? Which stores would those be, and how many?

Mr Fraser: Almost all of them that we represent. Almost all the retail food stores and department stores would fall into that category. We are concerned that they would be open because the majority of the employers we represent do not want to be open on Sundays or holidays. They have stated to us unequivocally that they do not want to open. They are forced to open because of the large chains. So you have a situation where maybe the large chains are benefiting, the small independent retailers are hurting because they do not want to be open, and the smaller, traditional mom-and-pop type stores are hurting because they are losing business to the large chains and the smaller independent retailers that are then open on Sundays.

The Acting Chair: Mr Mills, one minute.

Mr Mills: I thank you gentlemen for appearing here this morning and making this presentation. One of the key thrusts in this legislation is the quality of family life. I just would like to ask you briefly to give me some idea of how you think retail opening will affect the real quality of your family life and that of your members.

Mr Fraser: If an employee is forced to be available to work seven days a week, they are not going to end up working seven days a week. But because the schedules are done on a weekly basis, it is going to be Thursday at noon of each week before a retail employee finds out what day off he or she is going to have the next week. One week it is going to be Wednesday and one week Thursday. Maybe once every six weeks they might get a Saturday off or once every six or seven weeks they might get a Sunday off. Or they may end up working every Sunday; they may end up working every Saturday.

It is going to affect their family life because they are not going to be able to plan things. They are not going to be able to get into a regular routine. At least now they

know that Sunday is one day when they can plan to be with their families.

The Acting Chair: On behalf of the committee, Mr Fraser, I thank you and your committee for your presentation.

NANCY LOEWEN

The Acting Chair: I call our next presenter, Alderman Nancy Loewen. Good morning. You will be allowed 15 minutes for your presentation. You can use the full 15 minutes for your presentation or give a shorter presentation and we will have questions and comments from each of the caucuses. Please identify yourself for the record and then proceed.

Ms Loewen: I am Alderman Nancy Loewen of the city of Thunder Bay. First of all, I would like to welcome the panel to the city of Thunder Bay. I have asked the visitors and convention bureau to prepare a tourism package for you. I hope you are going to stay a few days.

Mr Sorbara: We are going to leave many of the New Democratic Party members here as we carry on.

Ms Loewen: I will not make any comment until after I have heard your comments.

My format is mainly in the form of questions with a conclusion at the end:

1. Why do the tourism criteria have to be administered by the municipalities? As the province is making the rules on Sunday shopping, why is the province not enforcing the rules?
2. Why do the applications have to be supported by the chamber of commerce or convention and visitors bureau?
3. Why does city council have to hold public hearings?
4. Why is city council under no obligation to pass a bylaw granting tourism exemption even if the application meets all the criteria?
5. Why is there a large gap in the amount for first offence, \$500, versus \$2,000 for subsequent offences?
6. Who will be held liable for costs, etc, if the retailer appeals council's decision: the municipality or the province or both?
7. Are exemptions to the guidelines still being considered by the Solicitor General for those cities directly affected by cross-border shopping?
8. Did the province actually meet with the chamber of commerce prior to establishing guidelines to discuss the forthcoming role the chamber will be playing?
9. Did the province actually meet with the city mayors prior to establishing guidelines to discuss the forthcoming role the municipalities will be playing?
10. Why is city council given the option of limiting the number of applications that will be considered in any year? Will this move not create animosity between city council and private enterprise?
11. Would the province be willing to delay Sunday shopping legislation to give the municipalities the opportunity to put the question, "Are you in favour of Sunday shopping?" before the electorate on the plebiscite? If not, why not?
12. Who is paying for the processing of applications?

13. Why can private enterprise not decide for itself, based on the results of a municipal plebiscite polling citizens on Sunday shopping, with very strict protection for the employee and enforced by the province? Can the province consider this suggestion?

1010

I have before me a copy of a survey. I did everything I could to rush this to the Premier of Ontario. I will give you the results of the survey and then I will tell you what the Premier's response was.

First of all, this was a survey done by Victoriaville and conducted with 268 people. Overall, 74% were in favour of Sunday shopping; 26% were not in favour of Sunday shopping. Among working consumers, including professionals, clerical, sales and service, trade and craftsmen, military, technicians, labourers and officials, 78% were in favour of Sunday shopping, 21% were not in favour of Sunday shopping, and 1% were uncertain of their preference.

It is broken down. Among unemployed consumers—that is, the unemployed, housewives and the disabled—84% were in favour of Sunday shopping; not in favour of Sunday shopping, 16%. Among retired consumers, 53% were in favour of Sunday shopping; 47% were not in favour of Sunday shopping. Students in favour of Sunday shopping, 85%; not in favour of Sunday shopping, 15%.

I am going to tell you what the Premier's response was to this survey.

"Dear Ms Loewen: I've read your letter, and its enclosed survey, about Sunday shopping. Our government supports a common pause day for Ontario workers and their families. We believe this strengthens family and community life, and protects small businesses and the rights of working people.

"The Retail Business Establishments Statute Law Amendment Act reaffirms our commitment to a common pause day, while improving protection for the rights of retail workers. The act provides province-wide criteria under which tourism-based businesses will be able to apply to open on Sundays and holidays. It also guarantees retail employees 36 hours of rest in every seven days of work and the right to refuse Sunday and holiday work.

"I appreciate being kept informed about the views of your constituents."

In this whole letter, the thing that bothered me the most was the last paragraph. I will repeat it, "I appreciate being kept informed about the views of your constituents." He completely ignored this letter and this survey. This survey was only 268 people in the community, but he completely ignored this letter and said, "I appreciate being kept informed about the views of your constituents."

In conclusion, from what little information I was given, it was rather difficult to have an opinion on this subject other than that the terminology is confusing and the statements vague and wide open to interpretation.

I am a new politician. I do not belong to any party. I do not wish to belong to any party. I do not have any idealism, values. I work for the city of Thunder Bay. As far as I am concerned, the constituents are my employers; I am their employee. I am replacing my dear friend, the late Mickey

Hennessy. I am sure you knew Mickey very well. I miss him very much.

During my short term on city council—I have only been a politician for four months—I have seen good, well-prepared briefs, the real meat-and-potato type. I know you know what I am talking about. I have also seen other briefs which basically skirt around the issues.

The provincial tourism criteria skirt around the issue. It appears that while the intentions of the Premier, the Honourable Bob Rae, were good, he tried to appease the tourism-oriented business community while on the other hand he tried to appease the labour union of retail workers.

Because he was trying to please both the tourism industry and labour, he actually has weak criteria. The Premier to date is not making a full commitment to either group.

Again, I am not a politician. I am one by job description, but I am not a very political person. But I do have a lot of common sense and a really good perception of things, of ideas. I think there is one group that has been left out here, and I think it is the consumer. What does the consumer want? Was this group ever consulted on a large scale? I have no idea. Was it?

For family reasons, I am personally opposed to Sunday shopping, but I refuse to let this belief influence my business decisions in any way.

I voted for the question of Sunday shopping on the plebiscite. I am of the opinion that the community should be consulted on a large scale, such as a plebiscite, for major issues. I will repeat that because that is so important. The community should be consulted on a large scale, such as a plebiscite, for major issues. They are paying our wages—my wages, your wages—and I feel they should be consulted.

The results on Sunday shopping should be given to private enterprise, who can take it from there and apply common sense. If the majority of the community does not want Sunday shopping, it is doubtful private enterprise will open. Putting the Sunday shopping question before the electorate should be the only municipal intervention.

The only provincial intervention should be very strict protection for the employees. That is the only part you people should play. I repeat the words "very strict," because if the rules are not clear and strict, what is the point of having rules in the first place?

I have received many calls, believe me, about Sunday shopping, about my decision for a plebiscite. I received many from students, from parents of students, from seniors out there—a lot of people threatening not to vote for me in the next election, basically, because I supported a plebiscite, because I believed the people should have a say.

I do not think Sunday shopping will give a large boost to the tourism industry, simply because our prices are high. It just does not make sense. I think the federal government has a responsibility to all constituents to start managing our money more effectively, to try to prevent cross-border shopping and try to prevent Sunday shopping from becoming almost a necessity for some people.

There are people in every community who have to ride the bus; they do not have a car. I do not know if you

people can understand that, but there are some people in the community who have a really hard time. They are going through a lot of hardship. Maybe that extra time working on Sunday means a lot to them. I know from people who have talked to me, who have called me, it does mean a lot to them.

If the federal government handled our money properly, the province and municipalities would not be stuck trying to cope with all these problems we have.

When municipalities are given the responsibility of carrying out a certain task, then it is good common sense and fair that municipalities follow through on their own rules. I personally, as a city council member, do not appreciate the province coming in and acting as the boss and telling me what to do. My bosses are the city residents, and I only work for them. The municipality will be wasting time and money trying to implement this legislation. The business owner will also be wasting time and money.

Certain members of the public, municipal and business sector, should actually be sitting on any task force, and I would like to make a comment about your task force here. It is totally wrong. This is all made up of NDP, Conservatives and Liberals, and you should have equal representation from each government. I think you should also have representation from business and labour. I do not know if you have task forces that talk to you people, but I think the structure of this whole committee is wrong.

I am very much concerned about the employees. I would like to see some stronger legislation to help them. I really appreciate Gregory's friendly amendment, trying to get that through. It is really a crime that you people did not listen to him, because he was right on the ball. He really said it all. That is what I mean: Your structure is totally wrong.

Last, I am flying into Toronto in the morning. If you want to meet with me further and discuss this, I have no problem. I will be in Toronto for two weeks on business. Actually, I will be touring city hall about a project I have on the hearing-impaired, but I would be glad to meet with you.

1020

The Acting Chair: We have time for one quick question from each caucus.

Mr Sorbara: I want to say to Alderman Loewen that hers is a meat-and-potatoes brief, and well presented as well. I wonder whether the committee would be interested in taking 10 minutes now and allowing the parliamentary assistant to the Solicitor General to answer the questions the alderman has raised, one by one, for the information of the committee. If we could get the answers to those questions before us in a way that allows us to discuss those questions through the rest of our hearings, we really will be doing something.

I suspect that the parliamentary assistant to the Solicitor General is going to refuse to do that, and if we brought a motion the NDP members would vote it down. In the alternative, I would ask that the parliamentary assistant to the Solicitor General, with the assistance of the Solicitor General's office, prepare written responses to those ques-

tions and have those transmitted to Alderman Loewen as soon as possible, with the same answers presented to us at this committee. Those questions are the very questions we are being asked over and over again in our communities, and we will hear deputants asking those questions over and over. So I would ask that the parliamentary assistant to the Solicitor General do that.

I really do not have a question. I do have a request, however. I believe your survey is more or less reflective of public opinion and public sentiment around the province. Would you consider providing it to us, and our clerk could make copies of it for all of us.

Can we deal with the question of whether we can take 10 minutes for the Solicitor General to answer those questions one by one?

Mr Mills: I thank the alderman for her presentation. I must say it was a rapid-fire presentation which gave me less than the usual parameters to make any notes whatsoever. It was boom, boom, boom. To go one step further than that, I have to tell you that we are here to listen and give comments about the presentations. I would be very glad if you gave me all those questions, and I will certainly take them back with me to the minister and discuss them, but you can understand that it is very difficult for me to grasp one question, because I thought you a little wound up.

Mr Carr: The mayor has said he figures that when the people actually do get a chance to voice their opinions, there will be Sunday shopping. The last group, the United Food and Commercial Workers, said no, they believed there will not be. From listening to you, it is your impression that probably the majority of people in this community will be voting in favour of Sunday shopping. Is that correct?

Ms Loewen: I have only seen one poll. I have been told by the news media that there have been several polls. I have only seen one poll, the result of Victoriaville, and it overwhelmingly says people are in favour of Sunday shopping, so I would assume the plebiscite will indicate this.

I am asking the province to do one of two things. Either you incorporate the rules and regulations—which is what you are doing; you are putting the rules and regulations on to the municipalities. If you are going to do that, then you handle it. Or you give it to the municipalities and we will handle it, we make up our own rules and we handle it. You do one or the other, but you do not go halfway between. That is what you are doing. You are coming up with the rules and regulations and you are telling the municipalities: "This is the way it's going to work. Like it or not, you've got it." You are passing the buck, and I do not like it. If we are going to do it, then let us make up the rules and the regulations. I am all for that, because this is a challenge for me.

Mr Morrow: I am looking for some clarification. You talked about a survey being done. I have a May 18 article from the Thunder Bay paper on a survey done by the chamber of commerce. The results of the survey are that 245 people out of 1,500 are clearly in favour of Sunday shopping. That says to me that it is not a majority. Can I get clarification from your survey to this survey?

Ms Loewen: The chamber of commerce surveyed only 24% of its people, and 68% of that 24% were in favour of Sunday shopping. But that was only 24% of their membership. They have a large membership.

Mr Morrow: But the base of that survey is fairly broad: 1,500 people, and 245 people are in favour of Sunday shopping. That would say to me that the majority of that poll would not be in favour of Sunday shopping. Is that not true?

Ms Loewen: Probably true, but I am not that keen on surveys. You can have as many surveys as you want, but I still do not think it is representative of the whole community. That is why I think there should be a plebiscite, because it would be representative of the whole community. You have one survey saying one thing, and you have another survey maybe saying something different. It usually is of a small percentage of the population, so I still maintain that on major issues there should be a plebiscite.

I really believe that is the problem of our country, that we are not listening to the majority of the people. That is where the plebiscite comes in. I think we should have more plebiscites throughout the country. I think that all levels of government should listen to results of the plebiscite, because then you would really know what the people want. These Gallup polls only survey 1,000 people. That is not the whole country. I am telling you that the way to go is the plebiscite. If you had more plebiscites on major issues, you would not have the problems you have today, because the people would have a strong say in how the government should be run.

Mr Daigeler: I want to indicate to the presenter that this is a legislative committee. You were wondering about the nature of this committee and why there are not business people represented. This is not a task force as such, but is a legislative committee of legislators who have been elected.

Ms Loewen: Except that if it is a legislative committee, it should have equal representation from all levels of government—

Mr Daigeler: The legislative committee functions under the Legislative Assembly Act, so there are certain requirements to be a member of the legislative committee.

Mr Jackson: On a point of clarification, Mr Chairman: I did not understand the parliamentary assistant. Has he agreed to undertake to respond to the 10 questions from the previous deputant in a written form to the committee?

Mr Mills: What I said was that we are here as a committee to listen and take back the concerns the alderwoman has raised to the ministry. I did in no way indicate that I would reply to those questions in a written form.

Mr Jackson: So you are refusing to respond to the questions? Thank you.

1030

THUNDER BAY AND DISTRICT LABOUR COUNCIL

Mr Powers: My name is Mark Powers, secretary-treasurer, Thunder Bay and District Labour Council. I bring you greetings.

For many years, all three levels of government, federal, provincial and municipal, along with business and labour,

have been working together to clean up the inequities regarding employment of the handicapped, racial discrimination and equal pay for work of equal value. Much has been accomplished, but there is still a long way to go on all these issues.

However, the issue of Sunday shopping has not received a united effort during its existence. The Ontario government under David Peterson wanted to let the municipalities decide. The municipalities wanted the province to decide. So here we are today.

The issue of Sunday shopping must not be confused with cross-border shopping. Too many times, these two different issues are thought to be the same. Such is not the case. Sunday shopping will not prevent cross-border shopping. Even with Sunday shopping in Ontario, the southward flow of shoppers increased, not decreased, from last June.

The Thunder Bay and District Labour Council believes there are many improvements necessary to the current days of shopping, not Sunday shopping. Currently, shoppers in Thunder Bay are not able to obtain full services during the entire shopping hours: management staff, opticians, automotive mechanics.

Are the retailers in Thunder Bay really concerned about the needs of the shoppers? The hours of retail businesses are not uniform. Some shopping centres close totally at 6 pm, except on Fridays. At other shopping centres, the shoppers will find only some of the retailers open for business. Intercity, the major mall of Thunder Bay, closes at 6 pm on Saturdays.

The Thunder Bay and District Labour Council maintains that retailers must develop standard hours of operation for the consumers. This would see many retailers increasing their hours of operation over the current six-day business week. With all retailers operating during the same business hours, competition for sales could improve.

It is obvious that the retailers are able to make profits while operating on a reduced workweek or they would have already extended their hours of operation. Rather than eliminate the practice of a common pause day, retailers must also improve the levels of services offered to the shoppers.

Having reviewed the Retail Business Holidays Act and the proposed amendments, the Thunder Bay and District Labour Council must inform this committee of its concerns.

Proposed amendments to the RBHA are too open. To allow municipal councils to make the decisions about shopping on Sundays would only create confusion. Traveling across Ontario, shoppers would encounter communities with Sunday shopping and communities without Sunday shopping. There is no need to allow such confusion to begin when it can be prevented. Now is the time, by not allowing the municipalities of Ontario to decide. This committee must preserve Ontario's common pause day.

Drugstores: Currently, drug marts in Thunder Bay are open until midnight from Monday to Saturday, and on Sundays until 10 pm. The Thunder Bay and District Labour Council finds it necessary to suggest that these businesses be closed on Sunday. This would eliminate many

problems and much confusion regarding the RHBA: (1) the need for a definition of a principal business; (2) legislation regarding those drugstores which would qualify for Sunday shopping, for example, square footage; (3) a formula or restrictions as to the number of employees allowed on the job on Sundays.

The employees' hours of work currently done on Sundays would be rescheduled to improve the level of service provided to the shoppers during the other business days.

Most of the prescriptions currently filled on Sundays could wait until Monday. After all, patients treated in hospital emergency departments and given prescriptions are dispensed dosages of the necessary medications. Prescriptions needing to be filled on Sunday should be available from the hospital pharmacy.

A review of prescriptions purchased by myself revealed dispensing fees of \$9.99, February 1; \$10.49, July 15; and \$13.95, July 15. Total expenses for those purchases were \$12.99, \$13.49 and \$37.63. Transfer payment shortfalls from the federal government have been estimated to cost Ontario approximately \$1.6 billion in lost revenue in 1991-92. In addition, OHIP payments for out-of-country health services, primarily in the United States, cost \$225 million in 1990-91. Being shareholders in Ontario, we must support Ontario, not private enterprise. Indirectly, the dispensing fees paid for prescriptions dispensed from a hospital pharmacy would be going to Ontario.

Tourist exemption: The legislation proposed leaves decisions to the municipalities. The Thunder Bay and District Labour Council again stresses that the province must decide, not municipalities.

Even with the high level of vacancies in Thunder Bay's current malls, there are plans for a Superstore, expansion of the McIntyre Mall and a new Sears store, with the current Sears store being renovated to make room for up to 70 more stores. Shoppers want the quality and the quantity of services improved. Retailers must be made to recognize the value of these services to the shoppers.

One third of Ontario's total workforce is employed in the retail sector. Sunday shopping would only place a demand on other services: public transportation, snow removal, police, warehouse staff, delivery persons, etc. Increased services equal higher taxes. Thunder Bay does not need that.

Say no to Sunday shopping. Thank you for this opportunity.

The Acting Chair: Thank you. I have allowed about seven minutes for each caucus.

Mr Sorbara: I am a little confused, to tell you the truth. The second to last paragraph of your submission states very clearly that Sunday shopping would only place a demand on other services, that is, public transportation, snow removal, police, warehouse staff, delivery persons. Yet your brothers in the NDP suggest that is not the case. They say that Sunday shopping will not increase employment at all.

When I read "public transportation," that means to me bus drivers having an opportunity to work and sometimes working overtime at double time or triple time. When I

read "snow removal," that means to me CUPE workers getting an opportunity to clean the streets on Sunday. I do not know why you would suggest that in the absence of Sunday shopping they would not clean the streets. Police forces as well; there might be more time for police forces. Warehouse staff: Surely you are right there, that there would be some increased employment in warehouses, because sometimes the warehouse is open if the stores are open. With delivery persons, you might not be right on the money, because the delivery person, if he works in retail, would have an absolute right to refuse.

Do you see some increase in employment in these other sectors, bus drivers, plow operators, police officers, warehouse staff, if stores are allowed to open on Sunday?

Mr Powers: In terms of public transportation, Thunder Bay transit is not a profit-making enterprise.

Mr Sorbara: I am talking about jobs for people.

Mr Powers: There is no issue of jobs here. What would have to be done is that our city council, together with the transit department, would have to decide which routes to cancel or reschedule the hours and the pickup times so they would be at peak pickup times during the Sunday shopping, which varied in the past; some 10 to 4, some noon till 5. The snow removal—

Mr Sorbara: It is going to be done anyway.

Mr Powers: Right, the city department does it anyway. But for snow removal there is a private contractor who has the contract with the mall manager to remove it. He has to do it quicker.

Mr Sorbara: So that would be better for the workers who are working for the private contractor, in terms of employment opportunity?

Mr Powers: No. They would have to look at all the places they have contracts with. Obviously, if there were Sunday shopping the malls would have to receive priority during their hours of opening. The other businesses would be put on the back burner. Once the major malls were done, those businesses not opening till Monday morning could be plowed later.

Mr Sorbara: I have one other major problem, and that is your submission that rather than opening on Sunday you should expand the hours during the week. You were complaining that Intercity Mall closes at 6. You could have better service during the week, longer hours during the week, is that right?

Mr Powers: The longer hours refers to the Intercity on Saturday evening, but it refers basically to those merchants who are out there operating on a standard Monday to Friday, 9 to 5, hours of operation.

Mr Sorbara: So give us 9 till 9 at night, you are saying?

Mr Powers: Expand those hours. Open those businesses on Saturdays first before we even look at Sundays.

1040

Mr Sorbara: That is another one of my problems. Your friends on the other side of the room keep harping upon the fact that we have to be concerned about quality of

life and family time and all of that. Well, I have six kids, and I do not mind if I have to go out to work on Sunday afternoon now and again. I see my kids in the morning, and that is not a terrible inconvenience. But if I have to work every night until 9 o'clock, that really hurts my family time. Most malls in Metropolitan Toronto, I should tell you, are open till 9:30 at night. While these guys are saying that you are hurting family life if the mall is open from 1 till 6 on Sunday, they forget that retail workers are also fathers and mothers during the week, and if they are not home for dinner, that is really hard on family life.

I cannot understand why you are arguing for greater hours if you are really supporting the notion that we should be concerned primarily about maintaining the high quality of family life. If you are consistent, should we not be getting all the stores closed down by about 4:30 or 5 o'clock so that father and mother can get home to be there at dinner with their kids?

Mr Powers: But if we close the stores down at 4:30 or 5 o'clock, where does that person who does have that perfect job of Monday to Friday, 9 to 5 or 8:30 to 4:30, go to do his business? Only on Saturday.

Mr Sorbara: My friend, I suggest that is the very reason 75% of the people are asking us to open the stores on Sunday, because that is the only time they and their children can go to the store and spend a little time together and get what they need at Canadian Tire or at Sears or whatever.

Mr Powers: Canadian Tire is open till 9:30 six evenings a week here.

Mr Carr: Thank you very much for your presentation. One of the questions I have relates to some of the other workers. Your concern is obviously paramount for the workers. But as you know, there are people who are in the restaurant business, the movie industry and so on. Would you like to see us go back to shutting them down? If not, what do you say to those people who are asking why the retail workers are different from the restaurant workers or the movie theatre workers or whatever? Is it just the case that they are unionized and the others are not? What do you say to those people?

Mr Powers: The workers in the theatres locally are unionized. If you want it taken on a provincial basis, I could not tell you how many of them are, but there must be a large majority. To close a theatre on Sunday—that is family time, because I get to take my children, he gets to take his grandchildren. That is family time together. Right now 101 Dalmatians is playing and I think Sleeping Beauty is the other, so on Sunday afternoon you get to go to that. It being summertime, we are lucky enough to have that also run on the early show at 7 pm; the 9 o'clock show is an adult film. You get to take the children out then if you unfortunately have to be on the job or doing your running around on Saturday.

Mr Carr: The other question relates to the whole issue of cross-border shopping. The government side had said it is not part of the same issue. It was interesting. Last week one of the retailers that came in here said: "We can compete with the selling of our shirts. What we cannot

compete with is people going across the border for three things: cheap gasoline, booze and cigarettes," all of which taxes were increased in the last provincial budget. So the big three items that people are going across for were substantially increased in the last provincial budget. They go across for those three items, and sometimes it is a matter of convenience. You do not see in any of the border communities, where you can drive to the United States on a daily basis, that in fact it does have to do with convenience, that I wake up Sunday morning and say: "Let's take the kids for a drive. Our stores are not open so we'll go to the States"? You do not see that happening?

Mr Powers: If they choose to do that on a Sunday, that is their form of recreation. To get to the border from Thunder Bay you are looking at 40 or 45 miles, so it is not a real border community. However, if you look at a map, there is nothing between us and the border, so we are a border community. The purchases made cross-border can be done, and if you look at a survey or chart as to purchases, you will see that shoppers are going now throughout the week, because there were peaks on the weekends and where you encountered the problem was returning into Canada at the border and the long lineups. So people, in planning, have even taken stats or vacation days during the week and done that type of cross-border shopping.

Mr Carr: The point I was trying to get at is that people throw out the statistics on the cross-border shopping forgetting that during that period we were increasing taxes significantly. That probably had more of an influence on it than some of the other factors. It is interesting to sit on the committee and see how people use statistics and pick out certain things—not yourself, of course, but the government side—to justify their position.

The final question I have got is about the protection of workers. As the legislation stands now, there are provisions in there basically, as the government has said, so that somebody who does not want to work on Sunday does not have to. If in fact—and we have had debate here today—communities do open up, do you think there is enough protection for the workers so that if, for example, some of your workers do not work, for either family time or religious reasons, do you think they can do that, or will the companies be able to force them to work if the legislation remains unchanged?

Mr Powers: The legislation, as it stands, is too open and confusing. I believe it reads that I may give my employer up to 48 hours' notice. If I have the seniority and, all of a sudden, discover that I have an event which is happening this weekend, I meet that 48-hour requirement, though that is not very much notice for the co-worker who is going to have to do those hours of work; whereas if I happen to fall down a set of stairs and end up in a hospital and somebody has to cover my sick time, that is much fairer. Although once again it is an act of God, the notice of 48 hours will squash all the plans of that other worker.

Mr Carr: Also, with regard to the tourism criteria, they are so broad that any municipality in the province could classify under them. I think it was made that way so that it will be up to the municipalities. Would you like to

see the tourism criteria tightened up a little bit and made tougher so that the municipalities cannot, as they do now, say, "We want to stay open and we'll use these tourism criteria as our out?"

Mr Powers: Tourism needs to be defined in a provincial policy from the border of Manitoba to the Quebec border, so that the standards are the same. We cannot allow the city councils across Ontario to decide, because one city council will set the standards today, an election will happen in November and there will be amendments to those standards. Those standards will change. There will only be confusion.

Mr Carr: One of the things people see happening is a snowball effect. We will have municipalities that will open because they will say, "Our next-door neighbours are, and if they are open, business will go over there." If the legislation is not amended, is that what you see happening, the snowball effect that you will be open because Thunder Bay will say, "We have to be open because our neighbours are," and they will in turn say they have to be open and so on? Is that what you see happening if the legislation remains the same?

Mr Powers: The problem with the legislation is that before we compare municipalities, let's look at the stores inside a mall. You can walk in a mall on a Sunday and not all of the merchants are open. So why do they open the doors to the mall if you cannot go in and make a purchase at all of those stores? If the municipality is going to open certain businesses on Sunday, as you say or suggest, it could create competition or steal business from the next community, causing it to say, "We had better open." Then it would be a matter of the number of hours they are open on Sundays. You would have a contest to see who could stay open the longest on Sundays, who would open the earliest and who could stay open the latest.

Mr Fletcher: I have just a couple of things. We hear a lot about the opposition members saying there should be a choice. Do you agree that workers should have the choice to say no to Sunday working?

Mr Powers: When we look at Sunday work, though, I have to look at my own employment. Unfortunately, if I look at what a member of the United Food and Commercial Workers or somebody in one of the stores is entitled to, I have been cheated. I am entitled to back time. I say that because I, in my job as a hospital orderly, am the essential service. I am employed and work two out of three weekends. I have a hell of a lot of back time coming to me.

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Mr Fletcher: Yes, but you do not have the choice, and that is what I am saying.

Mr Powers: Let's talk equity. Never mind choice. If one guy is going to get it, everybody is going to get it.

Mr Fletcher: Right, and should workers have the choice to say yes or no? That is all I said. I am not talking retail or anything else; I am saying workers.

Mr Powers: But when we talk about choices, we have to look at essential services. Is a supermarket essential? A hospital is.

Mr Fletcher: That is a very good point. You also brought up the point about bus drivers, municipal workers and everything else. I just want to say something. I know Mr Sorbara was saying it would not cost that much, but in the city of Mississauga they reported that it cost them about \$700,000 per year for more services to satisfy Sunday openings. That is a figure that is based on about 1988 dollars, so we are looking at substantially more. Where is that money coming from?

Mr Powers: When you refer to snow removal, it comes from the city taxes. Let's look at the senior citizens. The retirees are trying to hang on to their home, their nest egg, and they are losing it if you increase that. The bus fare rates recently went up in town. The rates would go up again even sooner.

Mr Fletcher: In other words, the cost is going to come from the taxpayer and the people who use the services, mostly from the taxpayer.

Mr Powers: But when it comes to the taxpayer, everybody pays, not only those who would be using the bus on Sunday.

Mr Fletcher: I know. That is right. Even people who do not agree with Sunday work and Sunday shopping would be paying for the services also. Their taxes go up.

Mr Powers: That is right. I would receive that bill. Even though I sit here today opposed to Sunday shopping, I would have to pay my share.

Mr Morrow: Welcome, brother. I thank you for taking the time to come down and talk to us.

Mr Carr talked briefly about how stats can be very misleading. We all know that 57% of people in Ontario want to shop on Sunday, but the other side of that poll states that 70% of people do not want to work on Sunday. I also understand that Thunder Bay is having a plebiscite on Sunday shopping. Do you think one question on that plebiscite should be, "Do you want to work on Sunday?"

Mr Powers: If we are going to talk about a plebiscite with the municipal election, it is only fair to the citizens and taxpayers of Ontario that it be a provincial standard question or questions. The questions per municipality will vary. They will not be the same. Those questions will be misinterpreted, misunderstood by the voters and therefore not be a true and honest survey. If it was a standard question in all of the municipal elections which could include both the Sunday shopping and the Sunday working, then we might have some fairness—might.

Mr Morrow: I could not agree with you more. I would ask for you to qualify your comments on the relationship between Sunday shopping and cross-border shopping. Could you possibly do that for me?

Mr Powers: Sunday shopping is an option. It was an option in the past, but I should say, not all merchants under one roof opened. Cross-border shopping is where we go south of the 49th. That is a totally different issue. It is my own personal feeling that with the recent action as to the provincial sales tax and the collection of it at the border, if one sits down and looks at the sales between now and December 31, 1991, those cross-border figures will even

increase, trying to beat the taxes which will come into effect in 1992.

Mr Morrow: Just for a point of clarification for myself, in the city of Thunder Bay how many actual workers does the labour council represent?

Mr Powers: More than 15,000.

Mr Morrow: That is quite a few.

The Acting Chair: On behalf of the committee, Mr Powers, I thank you for taking time out and giving your presentation this morning.

Mr Powers: You are welcome.

NORTH OF SUPERIOR TOURISM ASSOCIATION

The Acting Chair: I would like to now call upon the North of Superior Tourism Association, Mr John Beals. Thank you for being here this morning. You will be given a half-hour to give a presentation. You can either use the full half-hour for your presentation or you can give a shorter brief and then allow time for questions and comments from each of the caucuses. Could you please identify yourself and then proceed.

Mr Beals: My name is John Beals. I am the president of the North of Superior Tourism Association, which is one of the Ontario travel association programs in Ontario. I would like to state that the opinions I am giving today are not necessarily representative of each and every one of our members, but they are going to be my own feelings, both as the president of the tourism association here and also as a small business person who owns a restaurant in Thunder Bay that employs some 50 persons and a hotel in Thunder Bay that has just been renovated under loans through the Northern Ontario Development Corp and the Ministry of Tourism and Recreation and that will be employing somewhere in the neighbourhood of 100 people and also as the past owner of two fast food service restaurants in Thunder Bay, both of them in shopping centres.

I guess, in theory, a common day of pause is correct. In years gone by, when the family unit was what it was, people spent more time with their family, spent more time doing things on that day of pause. As we got into the age after the war, more and more people got into industry, which required products being produced on a continuous basis right through that common day of pause or Sunday and, for some reason, that common day of pause for everybody started to break down.

We are a community of paper mills, manufacturing, transportation, substantially a community of well-organized labour. Most of these large companies work shift work of 24 hours a day, seven days a week, and those families that have employees working those shifts do not have a common day of pause. It is perhaps wrong, but that is the way life is.

As a small business person having restaurants in shopping centres, I was very much against opening on Sundays. I was against it for a particular reason, and that was because I had to be part of that. I had to open my restaurant because the shopping centre was open. The restaurant really did not make any profit during that period of time, but it employed people. It employed schoolkids, high

school students and university students, people to whom I could not give 28 hours a week or employ six days a week. They were very happy to work. They were very happy to supplement their family income by working those five hours on Sunday.

When the first few weeks and months started, I boycotted shopping on Sunday, but that is my day of pause, and I started to enjoy being able to walk through what I think everybody terms a community centre, a shopping centre, to be able to do my shopping during that period of time.

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Then I put my hat on as a tourism representative, and tourism is a faltering industry in Ontario. Our numbers are down and we have to find ways of bringing people to this province or keeping the dollars within the province. It frightens me when I hear a politician, the Attorney General, state that it does not matter what goes on at these meetings, that the common day of pause is not going to change, and it frightens me that somebody is going to define what a tourist is. You know what a tourist is? He is not a tire-kicker. He is not a gawker who walks around taking a look at the scenery. He is not somebody foreign to us who has come in from the United States. He is not somebody who has come in from Quebec or Manitoba to spend money in Ontario. I was just out at the Murillo fall fair yesterday, and the government of Ontario is spending \$2 million to promote fairs and the enthusiasm of Ontario people staying in Ontario to spend their dollars in Ontario.

I put my hat on as a new hotelier in town, and my market is not Duluth, is not south of the border, is not Manitoba; my market is here in Thunder Bay. I am just outside of the city a little bit, but I am creating a retreat-seminar hotel, a getaway for people in Thunder Bay so that they can have their romantic holiday right within the city limits of Thunder Bay, not having to go and spend their money down across the border. Do I not have the privilege to call them tourists? They are spending money in Ontario. They are spending money on my property. They are creating employment. Without those people, we do not have a business.

Once that is successful and you see the amount of people coming to the hotel, people beget people; business begets business, and if you do not have anybody coming to your hotel, the parking lot is empty and nobody is going to come there because they do not like to be alone. Similarly, in a shopping centre, if the shopping centre is busy, people want to go to that shopping centre because they see other people. They want to intermingle. They will spend the dollars. They will create the employment, and we have to create our own employment. We cannot wait for somebody else to create it.

You, as politicians, want taxes. You have to create some jobs to collect the taxes. You have to allow private enterprise and private business to create jobs so that people can make money and pay taxes so that we can afford the social benefits we enjoy in Ontario.

I think it is important for people to have a quality of life that allows them to do and enjoy the things they want to do and enjoy, and things have to be equal. If everybody

took a common day of pause and relaxed and enjoyed themselves on that common day of pause, I am sure we would have a fine place to live, and we would probably look inwardly at ourselves and enjoy and respect the other person, but in the reality, it is not that way.

All people work, and they want to work. They want to earn money. You cannot say to people working in the grain elevators: "You're allowed to work on Sunday. You're allowed to work on Sunday at Abitibi"—if Abitibi stays open long enough for people to be working there—"and at Canadian Forest Products you are allowed to work on Sunday. But your kid can't work in a shopping centre on Sunday because he's got a common day of pause"—not with his father, who is working at Great Lakes but with his buddies someplace else. Is that a common day of pause? I do not think so.

It is a difficult thing to wrestle with with you people, but I think we have to have money generated in this province, and the more roadblocks we put up to generating that money, the more the consequences are going to be substantial.

This is a little off subject here. We see that Ontario Hydro is the largest producer of energy in Ontario, and because of gasoline prices and oil prices—CP Rail has bought a railway between a place just south of Estevan and it goes all the way to Detroit, and then they have a link from Detroit to Windsor, and they are shipping all of the coal from Saskatchewan and Alberta through the US for Ontario Hydro—to save what? To save us costs, at the expense of jobs of the railway, of the shipping people, of maintenance people? It does not make sense, and here we are arguing about whether we are going to have Sunday shopping and a common day of pause. My God, the way we are going, everybody is going to have a whole bunch of common days of pause.

I do ask you to think about the economics of it, and the economics of Ontario, and what we should be doing with that to encourage people to work, not encourage people to stay at home. Let's not put up roadblocks and excuses for people not to work and for government to have to pay them not to work. Let's find ways to employ them, and hopefully that thing we are lacking of enthusiasm within this province for wanting to work and wanting to produce and wanting to be self-sustaining—nobody likes to be on the dole. Nobody likes to have to go to the government and ask for money. So let's find ways of keeping those people employed: university kids, families who need that second income.

The Acting Chair: Thank you. We have about five minutes for each caucus.

Mr Sorbara: Let me begin by saying that I think your presentation was well thought out and reflects very much what we have been hearing from employers and tourist associations and chambers of commerce and business organizations and both, as my colleague Mr Poirier points out, small and large businesses.

The government is trying to pretend that if we were to give people the freedom to choose what they wanted to do on Sunday, whether as consumers or employers or workers, it would not increase employment in the retail sector

hardly at all. I want to ask you about your own experience. During the period when you were open on Sundays, did your payroll costs go up?

Mr Beals: Did my payroll costs go up in proportion to—

Mr Sorbara: Were you paying more?

Mr Beals: We were not paying double time or time and a half or anything like that.

Mr Sorbara: No, I am talking about overall. Let's say you paid \$10,000 a week in wages and benefits and the like.

Mr Beals: Proportionately, no, they did not go up.

Mr Sorbara: So there was no more money earned.

Mr Beals: Oh, I say proportionately of income.

Mr Sorbara: Did more people work for you?

Mr Beals: No, but more people got more hours.

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Mr Sorbara: More people got more hours, so more was being paid out.

Mr Beals: My students in those places would work anywhere from 8 to 10 to 15 hours a week. Now they are able to work 10 to 15 to 18 hours a week. It gives them a little bit more.

Mr Sorbara: So overall it costs you more in salaries and wages?

Mr Beals: Yes, but proportionately to income it does not.

Mr Sorbara: Did you have any difficulty finding people who were anxious or willing to work on Sunday?

Mr Beals: No, not at all.

Mr Sorbara: Did you force anybody to work on Sunday against his will?

Mr Beals: I never force anybody to work. If they do not want to work, they will not work. No, they quite willingly wanted the extra hours.

Mr Sorbara: Now grant that all of us, if we could create a perfect world, would have a day when we could all stop what we were doing and have some sort of day together, although to tell you the truth, on my common pause day I would not mind going to a baseball game and people have to work to make sure that that happens, and I do not mind travelling and people have to maintain gas stations and the like for that to happen, and police have to police the highway. But grant that it would be nice if all of the stores would close down and then there would not be any competitive pressure. Is it realistic to choose between what is a business that is a tourist business and what is not?

In other words, in your fast-food stores, do you make a distinction when someone comes up to buy, I do not know, a felafel or a hamburger whether or not they are tourists or not tourists? Do you ask them? Do you say: "Look, we're just catering to tourists, and I have seen you around Thunder Bay a lot. You're not a tourist. I don't want your business." Do you differentiate in your business like that?

Mr Beals: No. I tried to explain a little bit earlier. A tourist is a person who wants to spend money in the hospitality industry or the service industry or whatever it is. If a person from Thunder Bay wants to spend money on Sunday, he can go down to Duluth and spend money. What good is that money being spent down in Duluth? What good does it do Thunder Bay? Give them the opportunity to spend the dollars in Thunder Bay.

Mr Sorbara: You said in your opening statement that originally you had been opposed to the notion that you might have to open your businesses on Sunday and you were, to quote you, "boycotting" Sunday shopping. Now you seem to have changed your mind, and if I understand the thrust of your submission, you would prefer if the provincial government just let individual businesses choose whether or not they would open on Sunday. Is that correct?

Mr Beals: I think that it should be up to the individual. It should be up to whoever is operating that business.

Mr Sorbara: The NDP has suggested that it is really trying to protect the small store owner by requiring most businesses to stay closed on Sunday. What is the mood among the business people you associate with, your colleagues the small retailers? Do they feel like they really want that protection given to them under this bill, or would they prefer to compete or not compete on Sunday, depending on what the market was like?

Mr Beals: I do not believe that anybody is forcing anybody to stay open on Sunday. In the two shopping centres that I was in, it was up to each individual store owner to open if he wanted to.

The government—and I am not saying the NDP government or the Liberal or Conservative government or anybody—feels as though it is the protector of the small person and the public, that large corporations can look after themselves and can fight and the small person is the one who has to be protected. But you know, when I hear the large unions standing up as soon as Sunday shopping was shut down and saying: "We won. We are the protectors of the small people who don't have a voice; we've given them the common day of pause that they need," I am saying: "You guys are out to lunch. All of you large union people are working seven days a week. You're not doing what you're saying you are doing for the small people. You can afford it because you're making \$17 and \$18 an hour." Saying to the young students that are making \$5 and \$6 an hour, "You've got to have the common day of pause," does not make sense.

Mr Carr: In the testimony of one of the small retailers who came in, she was saying that her feelings are that if she forces people to work Sunday and people come into the shop and see a surly clerk who is there against his or her will, it actually hurts them. She feels the same way. She does not try to force anybody to work, because ultimately it hurts herself by having somebody who does not want to be there, for whatever reason, because he or she had something else planned or what not. Is it your feeling as well that if you attempt to make people work on Sunday in the service industry, then it will ultimately hurt you?

Mr Beals: I have seen some surly clerks who do not work on Sundays. It is an attitude. My restaurant and bar, I refuse to open till 1 o'clock on a Sunday night. Somebody said somewhere along the line that you do not need to serve food on Sunday; you just have to have it available. You can drink now until 1 o'clock; you can work till 1 o'clock in a bar on Sunday. Where is the common pause day in my bar? I train all of my staff to be willingly nice to people.

Mr Carr: It was interesting when we talked about the last Solicitor General in these Sunday shopping hearings. Mike Farnan went around and said that giving the municipal option was the chicken way out. He brought a little chicken around with him to mock the Solicitor General of the day, Joan Smith. What he did in his day with the introduction of this bill is give the municipalities the same option.

One of the feelings out there is that what will happen is, we may have a patchwork; that one municipality will be open because it will have had a plebiscite that people want it or that they feel they are a tourist area. What would happen in your estimation, for example, to your businesses if a neighbouring municipality were to open? Would you see your businesses suffering as a result if somebody else had the Sunday option?

Mr Beals: We really do not have any neighbours; we are in northern Ontario.

The reeves and the mayors and the city council, they are ward heelers, and I guess all politicians are ward heelers. They have to look after their constituents and try and read what in the heck they really want and then say, "This is what my attitude is, and this is what the public want." I do not see where it is really anybody's business. I do not see that it is the municipality's business or the Ontario government's business whether we stay open. Once you allow one type of business to be open on Sunday, it behooves you to allow every type of business to be open on Sunday.

Mr Carr: I think what politicians do is, they have their idea of what they want to see done, and what happens is that they have 15 people come in and they will pick out the one who happens to agree with them and say, "Aha, see? Everybody agrees with me." That is what politicians and governments do, and I think that is what we are seeing with this legislation. What is your best guess in your area? Do you feel that as a result of the tourist exemption and the public pressure it will be enough that they will take the tourist exemption and open up, and do you see, when the legislation is in, being open in your area? Your best guess.

Mr Beals: My best guess is that it is going to stay exactly the way it is. It is nice to sit around and talk about it, but it is not going to change. We are not going to go back to where we were 10 months ago. The decision is already made. All we are trying to do is convince people that we have looked at it once again.

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Mr Carr: Mr Mills says he is listening, so it will be interesting to see if there are any changes.

The Acting Chair: I would like to remind you that you have five minutes.

Mr Morrow: Thank you for coming, sir. I really appreciate that. I just have a few questions.

First of all, I would like to know if you exercised your option under the Retail Business Holidays Act that came into effect January 1, 1976.

Mr Beals: Did I exercise my option?

Mr Morrow: Under that act.

Mr Beals: Would you explain what my option was? I am not quite sure what it was.

Mr Morrow: You did have options under that act to open or not. Right?

Mr Beals: It is pretty difficult for me to open a restaurant in a locked mall and to have anybody in it.

Mr Morrow: Does it make sense that we, as the government of Ontario, know what every local council is doing or thinking?

Mr Beals: No, I do not think you are able to and I do not think it is necessary for you to.

Mr Morrow: Do you agree then with the tourism criteria being set up by the province to help local councils?

Mr Beals: The tourism criteria. Do you mean they are going to redefine what a tourist is?

Mr Morrow: That is part of the amendments.

Mr Beals: The Ministry of Tourism and Recreation has worked very hard over the years to keep as broad a definition of a tourist as there can be so that we can move ahead and bring in as many people as we can and call them tourists. Are we now going to shrink that up so that it works to somebody's benefit, to close stuff up?

Mr Morrow: Should workers have the right to refuse to work on Sundays?

Mr Beals: They should have the right to not work any day if they so desire. If they do not want to work on Saturday or Friday, stay at home.

Mr Fletcher: Just on that point, most of us here agree that there should be some protection for workers to have the right to refuse to work on a Sunday if possible. All through this tour so far I have been hearing that retailers should also have the same right to either open or not open. I am flexible. I can understand where they are coming from because I know where I am coming from also.

I have a letter from Joy Haywood, who is part of Magic Cuts here in Thunder Bay. She said that they signed agreements with large malls before this stuff was starting up, the Sunday shopping, and it states that they are obligated to remain open when the department stores are open. So in reality they would not have a choice if they have signed that agreement. They would not have the choice to close up on Sunday if they wanted to close if the department store was open.

Should our legislation take into account that even they should have that right to say no and they should be able to get out of that agreement?

Mr Beals: I have a similar agreement in my lease. Back 20 years ago, when I signed them there was no thought of being open on Sundays. We had to be open the hours the mall was open, whether it was 9:30 in the morn-

ing or 10 o'clock in the morning. When the mall opened, the store had to open, and that is really what the idea was.

In both of the shopping centres my restaurants were in, it was up to the individual store owner. The landlord used no pressure or asking whether we would stay open or not. It was up to the individual and it was up to my staff whether they wanted to work.

Mr Fletcher: Okay, but if they really wanted to push it with the agreement you signed you would not have a choice. You would have to open when they opened. Even if you did not want to open on a Sunday you would have to open, according to the agreement, if they took it to the extent of the law, which they could.

Mr Beals: I do not know.

Mr Fletcher: It would be a good one to fight, would it not?

Mr Beals: Why fight? The reality is that it makes good economic sense. It creates employment.

Mr Fletcher: I know, but if you did not want to because you did not have that, you would still be obligated to open, according to that agreement.

Mr Beals: But there is a whole bunch of what-ifs out there too.

What if we did not have Sunday? What happened if we decided that our common day of pause was going to be Wednesdays?

Mr Fletcher: You would still have to open your store if that mall said you were going to open.

Mr Beals: At one point or another, retailers used to close on Wednesday afternoons because they worked on Saturdays. Remember that, or are you not old enough?

Mr Fletcher: Whether it is Sunday, Monday, Tuesday, what have you, according to the agreement signed with the mall you would have to open whether you wanted to or not.

Mr Beals: I do not know. I did not have to. Nobody held a gun to me. Nobody holds a gun to my head to stay in business. Maybe the government does because it needs its taxes, but nobody forces anybody to do anything against his will in Ontario. That is the way it is. We have the freedom to do things that we want to do. You have to maintain that. You cannot keep taking things away from individuals and expect them to want to continue to be progressive. That is no pun.

Mr Fletcher: It is a contradiction in terms when you talk about Progressive Conservative.

Mr Mills: We have a clarification about leases in malls. I am going to call on Paul Ceyssens, who is the legal representative from the Solicitor General's office, to clarify that at this point.

Mr Ceyssens: I just wanted to raise one issue and that relates to Mr Fletcher's remark about the provisions of leases in shopping centres. It is a very brief point but I think it is worth raising at this point.

I would urge members of the committee to take a quick look at section 5a of the Retail Business Holidays Act in

its present form. I believe it is in the present form in the material that was provided to the members of the committee.

Section 5a is a very brief section and I will read it out:

"A provision in a lease or other agreement that has the effect of requiring a retail business to remain open on a holiday is of no effect even if the lease or agreement was made before the coming into force of this section."

I just wanted to underline that one section of the RBHA, which makes it very clear that no matter what the lease says the parties cannot essentially contract out of the legislation. I would be happy to answer any questions if there are any arising from that.

Mr Jackson: I have a point of clarification because I raised this question in the two previous rounds of committee discussions on this subject.

We have heard deputations that in spite of the clause that counsel just read to us—thank you—at lease renewal time, when the lease is a function of your profit margins, when the malls take part of their rental income as a function of their sales, there is no protection in Ontario that the lease is not dropped, and that it is a matter of time.

So the short answer is, yes, the legislation will protect you during the lifetime of your lease, but you are not guaranteed rates of renewal that will allow you to maintain. A representative from Cadillac Fairview and a representative from the Sears Corp, in my cross-examinations a year and a half ago, said, "Well, there's nothing that says we can't do it."

I just wanted to suggest that although I am acknowledging its presence, it should be put in context as to the way it operates out there. There is no legislation that protects small landlords in malls other than through the life of their current lease. I just wanted to put that on the record.

The Acting Chair: Do you have a response for that?

Mr Ceyssens: I have a very brief response. Mr Jackson is correct.

The Acting Chair: On behalf of the committee, I thank you for coming here this morning and giving your presentation.

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ONTARIO'S SUNSET COUNTRY TRAVEL ASSOCIATION

The Acting Chair: I would like to now call upon Ontario's Sunset Country Travel Association. You will be given a half hour to give a presentation. You can use the full half-hour for your presentation or you can make a shorter submission and allow time for questions and answers from each of the caucuses. Could you please identify yourself and then proceed.

Mr Duggan: My name is Mark Duggan. I am the executive director of Sunset Country Travel Association, and I would like to thank you all for the opportunity to address you. I guess I am the start of the out-of-town contingent from outside of the Thunder Bay area.

I would first of all like to explain to the committee what Sunset Country Travel Association is. Sunset Country Travel Association was incorporated under the laws of the province of Ontario as a non-profit corporation, effective April 1, 1974. The objects, which I think are important

and are really relevant to why we are here today, are as follows:

To encourage the effective operation and development of the tourism industry throughout the area, for the economic benefit of residents, communities and business enterprises and for the recreational enrichment of residents and tourist visitors.

The association shall be operated in a manner so as to achieve its objective through a planned program of tourist promotion activities, within and outside its area, and tourism development projects in concert with the programs of the Ministry of Tourism and Recreation.

The association shall co-ordinate the tourist promotion activities of individuals and organizations holding membership in the association and liaise with and co-operate with other organizations within and outside its area whose objects for tourism promotion and development are compatible with those of the association.

The association is representative of tourist interests and organizations from within its area.

In furthering its objects, the association will undertake advertising programs on behalf of the area, prepare publications to inform visitors of attractions, operate visitor information facilities, encourage any facilities, events and attractions for visitors, sponsor meetings, seminars, tourism and otherwise further the promotion and the development of tourism throughout its area.

Sunset Country Travel Association's motto is to develop, promote, advertise through co-ordination, co-operation and communication with clients and organizations for the betterment of tourism in Sunset Country and in Ontario.

Why are we here today? It is these objects and motto that bring our association to Thunder Bay today to make this presentation to the standing committee on administration of justice.

For your information, the boundaries of Sunset Country Travel Association are as follows: on the west, the Manitoba-Ontario border; on the south, the Canadian-US border; to the east, English River, including Atikokan and Pickle Lake, and to the north, all the way to Hudson Bay. This would represent some 60,000 square miles.

We have a relationship with Tourism Ontario. Sunset Country Travel Association is a member of Tourism Ontario, as are the other 11 travel associations. We understand that Tourism Ontario has made a presentation to you in Toronto and I would like to highlight that brief, which is supported not just by Sunset Country Travel Association but by more than 7,000 member businesses who are in the commercial lodging, food service, hospitality, recreation, travel and transportation services that are available in the province.

I am most pleased that the standing committee has moved outside of Toronto for its hearings so that we can be present. As I said earlier, co-operation, co-ordination and communication are the three Cs that Sunset Country Travel Association lives by in our motto. I would ask this committee to remember what the three Cs stand for when the final legislation is passed on Bill 115, and how it relates to the people of Ontario and the millions of visitors who come to Ontario.

Attached is our list of directors of Sunset Country Travel Association. There are 18. You will see that they come from a variety of towns throughout northwestern Ontario, and also at the very bottom is my name and address and information.

I would like to talk now about the social and economic importance of Ontario tourism and the hospitality industry. The social and economic importance of the Ontario tourism and hospitality industry is very substantial indeed. It is the province's largest private sector employer, accounting for 160,000 person-years of employment in 1989 on a direct basis. It is responsible for the creation of a further 251,000 person-years of indirect and induced employment in 1989. It is responsible for the creation of 32 full-time jobs for every \$1 million in tourism expenditures. It is Ontario's largest employer of women, youth, indigenous people and visible minorities, including thousands of permanent and upwardly mobile positions for full-time professional service staff and college and university-educated persons.

It is the province's third-largest industry, generating 1990 direct expenditures of \$15.5 billion, estimated total income of \$22.5 billion and an estimated total sales of \$36.9 billion. It is one of the nation's largest generators of personal income and corporate, property, business and sales tax to all levels of government, including \$1.85 billion to the province of Ontario, \$2.5 billion to the federal government and \$300 million to the municipal governments in 1989 alone.

It is the province's fourth-largest export industry and a substantial contributor of foreign exchange earnings, which generated an estimated \$3.06 billion in 1989 from American and other foreign visitors. It is the gateway to Canada for a large percentage of foreign visitors, including 66.8% of all US visitors and 55.1% of all person-trips by overseas visitors to Canada in 1990.

It is the economic mainstay in the areas of the province wherein economic alternatives are few, are in a steep decline or are non-existent. It is the province's largest commercial consumer of Ontario-produced agricultural products. It is a sustainable, environmentally clean and renewable resource in an era of major public concern about the conservation, preservation and cleanup of our environment. It is the largest industry in the service sector, which now accounts for 70% of all new jobs.

Sunset Country Travel Association supports the Tourism Ontario Inc position. Like Tourism Ontario, Sunset Country Travel Association believes that in a free and democratic society, the public should have the unrestricted right and the freedom to choose whether and where they wish to shop any day of the week, at any time of the year. Thus, retail shopping should be permitted throughout Ontario where and when retail business establishments perceive the need to provide it. Similarly, Ontarians should have the unrestricted right to work, earn incomes and profit from the production and sale of goods and the provision of services any day of the week.

Retail shopping is an integral part of the tourism experience and represents a significant portion of the value of the tourism expenditures in Ontario. Most retail shopping,

dining out, touring, sightseeing and recreation take place on weekends. Clearly the majority of Ontarians and visitors to Ontario favour unrestricted retail shopping on Sundays and holidays as part of a family activity.

Sunset Country Travel Association agrees with Tourism Ontario that unless and until the government of Ontario is prepared to recognize these fundamental rights, freedoms and marketplace realities by abolishing the Retail Business Holidays Act, Ontario is destined to continue to lose billions of dollars' worth of annual tourism and retail sales to bordering American jurisdictions which are wide open for retail businesses on Sunday and holidays.

Further, whereas we see some merit in Bill 115, the Retail Business Establishments Statute Law Amendment Act, 1991, and commend the Ontario government for endeavouring to recognize the value and importance of tourism in this legislation, in the end analysis we fear that it will result in costly, time-consuming administration burdens and litigation as municipalities, retail business establishments and organizations endeavour to interpret, comply with and apply the proposed provincial tourism criteria.

Regrettably, inconsistencies, confusion and conflicts outlined in the proposed amendments to the Retail Business Holidays Act and pursuant regulations may not result in the desired positive interface and co-operation between the public and private sectors to realize and capitalize on the tremendous economic and social benefits of retail shopping as an integral part of tourism throughout Ontario.

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We therefore respectfully request that members of the standing committee on administration of justice seriously consider the following changes which should be made to the proposed RBHA amendments and regulations in this regard:

1. Tourism area characteristics: The list of characteristics for a qualifying geographic area should be expanded to include the following tourism criteria: tourism in the area has historically been an important part of the local economy; provides goods or services necessary to tourist activities in the area.

2. Retail business restrictions: This whole section is redundant and blatantly discriminatory and should be removed from the proposed legislation. The number of persons serving the public and the floor space occupied by a qualifying retail business establishment should have no bearing on its ability to meet common tourist criteria.

3. Tourism season qualifier: These time periods will vary within a designated tourist area, as will the length of tourism season for various types of qualifying retail business establishments, for a wide variety of market-driven circumstances. Therefore, we recommend that this qualifier be removed from this section.

Tourism Ontario has stated its case to you and has taken the time to detail the concerns of its 7,000 members that belong to Tourism Ontario. The amendments are discussed in fine detail and have been presented to you relating to the Retail Business Holidays Act and the Employment Standards Act. I am going to highlight some

of the points that Tourism Ontario made, starting off with a common pause day.

The concept of a common pause day in Ontario is outdated, unnatural and misplaced. In our contemporary society, tens of thousands of Ontarians must work at all hours of the day and night throughout the week in resource industries, in the processing, manufacturing, packaging and distribution of all manner of products and in the provision of a broad range of goods and services to our citizens and others. While some people rest, others conduct business and provide services.

The Ontario tourism and hospitality industry must provide value for dollar, quality products and experiences and good service on an uninterrupted basis to patrons and domestic and foreign markets seven days per week and 365 days per year, with some seasonal and geographic limitations. The market appeal of our industry is driven by the demand created for its products, experiences and services in an extremely competitive international market, and the supply of them by willing entrepreneurs, professional management and staff, and to a very substantial extent by various Ontario government ministries and agencies. We must provide these products, experiences and services to our patrons when they want them or risk losing them to other competing jurisdictions. Thus, the concept of a common pause day is totally alien to our industry and to many other segments and sectors in our economy.

Tourism is the direct supply of goods and services to facilitate business, pleasure and leisure activities away from the home environment. It covers a broad range of products and services, including transportation—airline, auto, motor coach, rail and marine—accommodation, food and beverage services, live and participatory entertainment—festivals, events, culture and the arts, athletic competitions, business and social gatherings—conventions, meetings, symposiums, amusement activities, such as leisure, recreational and educational, and to a significant extent retail shopping.

All manner of activities are encompassed by tourism, such as visiting friends and relatives, urban and country touring and sightseeing, soft wilderness and wilderness lodging, camping and leisure pursuits and historic and heritage sightseeing visitations.

The Ontario Ministry of Tourism and Recreation, with assistance and support from the private sector in tourism, has carefully segmented its substantial tourism marketing initiatives to create the greatest possible public awareness of and demand for the products, services and experiences offered by our industry in our target markets throughout the year.

Retail shopping is a major tourism activity in Ontario. In virtually all research which has been conducted of residents and foreign visitors travelling in Ontario, retail shopping constitutes one of the top three tourism-related activities. In 1988, for example, retail purchases represented \$2.2 billion of all tourism expenditures in Ontario. Direct jobs in that year created by the retail sector amounted to the equivalent of 29,000 full-time jobs, or 14% of total direct employment in the tourism sector.

The total impact of tourism-related retail purchases in 1988 on tax revenues generated by the province was \$366 million, \$134 million for Ontario municipalities and \$602 million for the federal government. The majority of all tourism-related activities, including retail shopping, takes place on weekends.

The provincial government actively promotes retail shopping and touring. The Ontario government, through the Ministry of Tourism and Recreation, invests a substantial portion of its multimillion-dollar annual tourism marketing budget in the active and aggressive promotion of retail shopping and touring in the province. Non-resident visitors are encouraged to shop and to stay in Ontario through a very productive program of provincial retail sales tax refunds for visitors to Ontario, which was established by the province in 1977.

The government must protect the tourism values. Both private and public sectors in Ontario tourism have made enormous investments in the planning, development and promotion of a broad and diverse range of tourism and hospitality products, services and experiences to service ever-changing contemporary consumer tastes and demands.

A good number of Ontario's tourism and hospitality enterprises are fully integrated retail business establishments which cater to the patrons' requirements by providing various retail services in addition to food service, lodging, entertainment, recreation and auto and/or boat fuelling, parking/storage and service facilities seven days a week. Said retail services include stores, shops and boutiques which supply all manner of sundries, groceries and outdoor provisions, clothing and travel services, vehicle and boat rentals, speciality gift shops, antiques, crafts and souvenirs. The provision of these retail services on Sundays and holidays represents upwards of 2% of the gross weekly sales for numerous tourism and hospitality enterprises, most of which are taxed by the province.

Key factors influencing tourism-related Sunday shopping: The extent to which tourism-related Sunday shopping is successful and attractive is dependent on three primary factors, those being (1) shipping convenience, (2) the variety of retail business establishments and (3) the variety of retail merchandise from which to choose. Service, quality, value and price are other important factors which influence buying decisions.

Our competition: Our largest market by far for non-resident visitors to Ontario is the United States—23.1 million person-visits in 1990—with the bordering states of Michigan, Ohio, New York, Pennsylvania and Minnesota accounting for the vast majority of said visitors. Conversely, all these states aggressively promote their tourism and hospitality products and services in Ontario. These states are non-blue-law states, with Sunday shopping acting as a magnet to lure Ontarians by the hundreds of thousands across the border every weekend to purchase all manner of retail merchandise.

We estimate that every Ontarian who visits the United States for 24 hours or less spends a minimum of \$100 on retail purchases, fuel, meals and entertainment. According to Statistics Canada, between January and May 1991, 9.89

million Ontarians made same-day trips to the United States. Of these trips, 70% were on weekends and 40% took place on Sundays and holidays. Similar weekend percentages apply to another 2.2 million Ontarians who have travelled to the United States for one or more nights during the same period.

From a recent study of cross-border shopping in Kingston, Ontario, conducted by Ernst and Young, there is clear evidence that for every \$1 which Canadians spend on cross-border shopping, they spend an equivalent amount on services such as food, fuel and entertainment.

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The government must adhere to its own legislation. The Ontario government and the municipal governments across the province are large employers of workers, both directly and indirectly, who must work on Sundays and holidays in retail businesses and retail business establishments which compete directly with the privately owned retail businesses and retail business establishments. Everything from gift shops in hospitals to numerous large and small attractions such as the Metropolitan Toronto Zoo, Ontario Place, the Ontario Science Centre, Black Creek Pioneer Village, Upper Canada Village, the Niagara Parks Commission, Science North, Old Fort William, provincial parks, conservation areas and municipally owned stadiums offer various forms of retail business services from concession stands and camping supplies to speciality boutiques and retail stores.

The crown, ie, the province of Ontario, is not bound by any provision in Bill 115 with respect to the crown-owned retail business establishments on Sundays or statutory holidays and can open then whenever it wishes. Municipalities can easily exempt their own retail business establishments under Bill 115. Surely this is no place for blatant hypocrisy and unfair competition in a province such as ours that prides itself on equality and rights and freedoms for all.

Legislated protection for retail workers: Governments of every level are constantly creating costly subsidized programs to train and employ our youth, to retrain and locate suitable employment for displaced workers and to provide entry-level employment opportunities for numerous inexperienced and unskilled persons. Most, if not all, of these persons are available to work, want to work and have the right to work wherever and whenever there is an opportunity to do so. Many of these people, and others, are or would be happy to work in retail businesses or retail business establishments on Sundays and holidays for personal or business experience or economic reasons.

We would reiterate that the Ontario tourism and hospitality industry must, with some seasonal business exceptions, provide an uninterrupted service to our many patrons, seven days a week, 365 days a year. Our employees willingly accept this fact as a precondition of employment in an industry which is totally dependent on good service, goodwill and professional hospitality.

Employees in our hospitality industry are treated with dignity and respect by employers whose businesses are so dependent on staff attitude. The vast majority of workers in Ontario, including retail business establishment employ-

ees, are protected under the Employment Standards Act. It is very costly for employers to hire and to train staff in our industry, and most others, and it is in their best economic interest to operate well within existing labour laws.

Any employee can be asked to work at any time by employers beyond normal working hours, and many are anxious and willing to do so. However, no employee can be discriminated against for not accepting work outside the normal working hours. Thus, there is no need to establish any new law to protect worker interests beyond that which already exists, particularly one which is totally biased and discriminatory in favour of the one class of worker.

In conclusion, Sunday and holiday shopping has become an economic necessity for many thousands of Ontarians as they struggle to balance working realities with personal and family responsibilities. It is also a prime tourism activity for families and individuals who travel to and within our province and who combine shopping with entertainment, sightseeing, touring, dining, recreational activities, festivals and events.

Ontario and all the municipalities in the province benefit directly and considerably from the tourism expenditures. Both levels of government are constantly searching for new and incremental sources of revenue to fund all manner of social services, enhanced and enriched education for our citizens, better health care, improved roads and affordable housing. Government recognition and protection of tourism values and the operational realities of our industry at both the provincial and the municipal level will enhance significantly the ability of the government to provide said services for our citizens.

While we commend the efforts of the Minister of Tourism and Recreation and the ministry to recognize the value and importance of tourism in Bill 115, we are very concerned that the full potential of our industry, as it relates to Sunday shopping as a major tourism activity, will not be realized unless significant amendments are made to the Retail Business Establishments Statute Law Amendment Act.

We respectfully recommend, therefore, that the standing committee on administration of justice and the government of Ontario seriously consider all the facts and recommendations which are rendered in this submission.

The Acting Chair: We have time for one comment from each caucus.

Mr Sorbara: Throughout these hearings the government has said there will be a number of beneficiaries of this bill. During the hearings, though, we have heard that retail workers are ready and willing and anxious to take up Sunday hours. We have heard small business people say they need the freedom to decide whether they are going to open on Sunday. We have heard about surveys here in Thunder Bay from consumers saying they would prefer to have the freedom of choice as to whether they and their families will go out shopping on Sunday.

Can I ask you to take the devil's advocate position? Do you see any group or any constituency or any community or any organization that is going to benefit from the policy thrust and the direction of the government's bill? Who is

going to benefit from this, if the government passes this bill?

Mr Duggan: I am a firm believer in wide-open Sunday shopping.

Mr Sorbara: Do you see anybody benefiting from this?

Mr Duggan: I think the citizens of Ontario, the visitors to Ontario and, generally, a lot of people benefit from the ability to open, the ability to shop and buy products on Sunday.

Mr Sorbara: If the government passes this bill and requires only those businesses that have a tourism base to open, do you see any real benefit to the province or to any group in the province?

Mr Duggan: From the tourism sector, I see those people benefiting directly.

Mr Sorbara: To the detriment of the rest of the province?

Mr Duggan: I do not believe so. I believe in fair competition. I should have a right, as a citizen of Ontario or as a person who is running a business in Ontario, to be open or closed.

Mr Sorbara: As you choose?

Mr Duggan: As I choose.

Mr Sorbara: And everyone else should have that right?

Mr Duggan: You in the government and the municipality certainly charge us taxes based on a seven-day week.

Mr Jackson: Thank you for an excellent brief. I wanted to suggest to you, building on Mr Sorbara's point, that the one group which has persistently commented to me that it is adversely affected by the government's bill is university and community college students. I understand that on this northern trip—we are in three northern communities which have between them five educational institutions—we do not have any deputations from students. However, they are very badly affected by the legislation that has the effect of reducing employment opportunities, especially at a time when their tuition fees have gone up more this year than in any previous year of the decade. It is costing students more to go to university; we know it costs northern students in particular more because of the requirement of accommodation. Yet we are hearing that students make exceptionally good employees, that they work and are willing workers, which is something the labour movement always tells us, that we want willing workers.

Can you comment about how this would adversely affect the student community, especially in these times when they are so desperate to find employment? What effect would this bill have in terms of opportunities lost for students in this province?

Mr Duggan: A major economic strain to not only the students but the parents. We, as a travel association, hire over 40 travel counsellors to work in our information centres. We are hiring senior citizens over 65 years old who want to be part of the community, who are working Sun-

days, and students who work with these senior citizens who are working Sundays and holidays because they want to be part of the tourist industry.

In the tourist industry, there are no days of the week. A visitor is there to be helped and serviced, and we have an obligation to take care of those needs. Otherwise, we are not in the tourist business and we are not open for business. If that is the message that comes down under this new legislation, then that is what we will be promoting with the Ministry of Tourism and Recreation: "Visit us Monday to Saturday. We are not open Sundays."

Mr Fletcher: Your presentation is good, and some of your recommendations for tourism criteria are very good. I could support a couple of them, I think. I am sure of it.

You were saying workers already have enough protection under the employment standards. Bill 114 was the Liberal version of the employment standards to protect the workers. Let me quote what was said by then Liberal MPP, Rick Ferraro, the former member for Guelph, in March 1988 when this bill was coming through: "You have to work when the business is there. Employees are jeopardizing their jobs by refusing to work. An employer will eventually find someone who is willing to work on Sundays."

He was saying there was no protection for workers under the previous act, Bill 114. That is what this government wants to do, make sure we do have protection for workers so they have the right to refuse if they do not want to work. That goes for students, that goes for single parents, whoever, but we also do not want to hurt the tourist industry. That is why we have the criteria. That is why, as I said, I think your recommendations are very good and very positive, and we are very happy you are here putting this forward. This is what this committee is here for, to listen to what you have to say, and we have heard it before. It is a recurring theme from the tourist industry. From what we are hearing, we have some serious reading to do as far as the tourist criteria are concerned, and perhaps we will be changing them.

Mr Duggan: I live in a community called Kenora, which unfortunately you people did not get a chance to visit today, although you will hear this afternoon a number of people from Kenora who will show you samples of the Sunday shopping issue. You will also hear from the labour union, which will show you other samples.

We have tried it. We like it. The present legislation is not broken. It does not need to be fixed. The large chain stores that are open—Safeway, Canadian Tire—have a very good agreement with their employees. They are not forced to work. Mr Bishop, who is on at 1 o'clock, will explain how he communicated and worked with his employees.

There are lots of people out there looking for work and opportunities to better themselves. If I choose not to work on Sundays, there are 10 other people behind me who would like the opportunity. The operative word is "opportunity."

The Acting Chair: Mr Duggan, on behalf of the committee, I thank you for taking time and coming here to give us this presentation.

Mr Jackson: I wanted to wait until we were in the morning segment to put in a request. It is my understanding that we have not received a deputation from the Ontario Federation of Students. Given that these concerns are being expressed—other people seem to be speaking on their behalf—perhaps we could ask the clerk to contact the OFS and invite its comment on this legislation as it affects students in this province. I think that would be helpful not only to the government but to the members of this committee as well.

The Acting Chair: Does the committee agree? We are accepting written briefs.

Mr Jackson: If there is an opening, we could advise them and they could be slotted, but a written brief is fine.

The Acting Chair: Is that agreeable with the committee? Agreed.

Just a couple of announcements: Checkout time is 1 o'clock, for members of the committee. You can either leave your bags here or there is a room just off the checkout counter. Also, there is a buffet lunch for members of the committee and the ministry staff in the Icelandic Room. This committee will recess until 1 o'clock this afternoon.

The committee recessed at 1204.

AFTERNOON SITTING

The committee resumed at 1305.

KENORA AND DISTRICT CHAMBER OF COMMERCE

The Acting Chair (Mr Cooper): Good afternoon. You have half an hour to give your presentation. You can either use the full half hour for your presentation or you can make a shorter submission and allow time for questions and answers from each of the caucuses. Please identify yourselves and then proceed.

Mr Pote: My name is Chris Pote. I am the first vice-president of the Kenora and District Chamber of Commerce. I have come down to enlighten you on the chamber of commerce's position in Kenora. I am here today with Mr Doug Bishop, the manager and owner of the local Canadian Tire store. He was instrumental in our proposal, the proposal of the town council that amended the bylaw to allow for Sunday shopping in larger retailers. We can, I believe, present a bit of history that might be helpful to you in your deliberations on these issues.

The history of the Sunday shopping issue in the Kenora and District Chamber of Commerce began, as far as I was concerned, in 1989. At that time our retail committee determined that the issue was coming to the forefront and that we should poll our membership to find out the position of the members on the Sunday shopping issue.

At that time the retail chairman of our chamber of commerce prepared quite a lengthy questionnaire, which mentions wide-open Sunday shopping, in those words, a couple of times anyway. It concluded with a question as to the support of the members of the chamber on Sunday shopping. At that time we received an indication that it was split about 50-50. At that point we determined we could not, as a chamber, take a position on that issue at that time.

In 1990, Mr Bishop came to the chamber of commerce with a proposal that he was to take before town council. It was a quite well done proposal. It included his proposal, as well as economic and tourist rationales, and his personal rationale. It was very well done and presented to the director of the chamber of commerce at that time. During that meeting, after he had left, we determined we would in principle support that position when he took it to town council, but we would first poll our members once again to get their feeling before we could give our final approval.

At that point we conducted another survey. This time it was a single question. Our president asked the members to read the proposal, and I will read that proposal as it is stated: "It is proposed that the bylaw controlling Sunday shopping in Kenora be amended to encourage tourism in the summer as follows: Stores wishing to cater to tourism be allowed to open for limited hours on Sunday during the tourist season; the Sundays during the tourism season would include statutory holidays, if they happen to fall on a Sunday; and the Sunday shopping hours be limited to six hours between 12 pm and 6 pm."

The question to the members was: "Do you support the proposal? Yes, I do support; no, I do not support the pro-

posal." At that point we had an indication from our membership that they supported the proposal by approximately 70% in favour, 30% opposed.

It has been a divisive issue in the directorship, but we now have a year's history with this Sunday shopping being allowed in the major retailers. It occurred to us at the time we were debating this issue that there were only six locations in Kenora that could not be open on Sunday. That included the Canadian Tire store, the two major grocery retailers—Safeway and Extra Foods—it included the SAAN store, a clothing store, and also a Woolco, or Woolworths. I believe it might have included Kenora Home Hardware. I am not sure if they fell into the parameter of square footage or not.

It also occurred to many of us that there were so many things being done on Sunday that the issue of a common day of rest was not really an issue because there were so many people having to work in so many functions, in the mill, on the railroad, in the hospital, truckers. It seemed like everything was open except these major retailers. To push for a common day of rest and single out these retailers seemed to us at the time—to a majority of the directors and I think a majority of the membership at large—to be discriminatory and not productive.

That, I believe, is the chamber of commerce's position to date. I believe you will still find that there would be that sort of split in the membership, yet we have not heard anything from our smaller retailers. Mr Waters spoke to us during lunch about something he noticed about retailers in his Muskoka region, the smaller ones being concerned about opening on Sundays, or that they would have to open. We have many small retailers on Main Street in Kenora in the business improvement area who are not open and we have had no complaints from them over this past year. Their president was made aware of this particular session here and chose not to attend to make a presentation in opposition. She herself has a personal opposition to it, a religious opposition.

I believe that our history in Kenora, from our perspective, has shown a great deal of success and has been satisfactory to all parties concerned.

I would like to turn the time over to Mr Bishop now to describe his experiences in the past year, and I would like to leave time for questions at the end. I would like to present some of my own personal views, if there is time, but I will make that decision when I find out how long Mr Bishop will take.

Mr Bishop: As Chris mentioned, I approached council in April a year ago and asked to have our bylaw in Kenora changed so that I could open my store on Sundays because I believed it would be very good for my store, for Kenora, and for the customers who visit Kenora. Almost a million people come through Kenora every summer as tourists. It is an astonishing quantity, compared to our small population of just 15,000 people.

In the handout I have presented here today, on the first page it indicates that Sunday has turned out now to be our

single most productive day of the week. I have not made it that way, and the government has not made it that way. The customers have made it that way. The date shown on this page indicates that on Sunday the average sales rate in my store is \$2,598 an hour, and that is higher than Saturday and higher than Friday—higher than all other days of the week. It has really been quite astonishing. We were very pleased that we had such good results last summer, 1990, during the summer months. My sales in total increased 14%. This was a transfer of sales out of the US and out of Manitoba, I believe, and it was good for Ontario and good for Kenora.

I have to point out that this kind of achievement and expression of support by our customers is not consistent with the common pause day approach. My customers enjoy my store being open. Invariably they line up in front of the store every Sunday. I do not think there has been a Sunday yet this summer when there has not been five, 10 or 20 people, and on one occasion more than 50 people, lined up outside the front of my store before 12 o'clock waiting to get in. It is just amazing. The parking lot is always full all day Sunday.

I am sure our sales revenue on Sunday is new revenue in our market. I am not sure this would be the case in a metropolitan area like London or Kitchener or Toronto, but certainly in Kenora it is. We track that through credit card transactions, battery invoices where we have names and addresses, tire invoices, those kinds of things. The greatest bulk of all this activity is from out of Kenora.

There is no question that Kenora is a tourist town. Almost a million people travel through Kenora every year. They spend well over \$230 million every year. That amounts to more than half of all the spending in Kenora. Half of all our jobs are dependent on those tourist dollars. Even worse, our winter is very short—I am sorry; our summer is very short. I guess I should have just left it the first way. We have 189 days of frost in Kenora every year. Beyond that, we have 100 days of tough sledding and maybe a couple of days of summer, and last year they were both hot, and we have to make our hay when the sun shines. Literally 58% of all my business occurs in 27% of the time; in 100 days from May 20 to Labour Day we have to do 58% of all our business. It is tough. We have a pause day. It lasts from Labour Day till May 20, and it is not of our selection, our direction. It is just the way our market is.

It is fearsome to have you people here and anticipate that irrespective of what I might say or plead for, you are going to go home and put this thing into effect anyway, and it is fearsome when I read the proposed regulations that say that if a store is over 7,500 square feet, it cannot be open. I am over 7,500 square feet. I have the biggest ma-and-pa store in town; there is no question. I am there every Sunday, darn near. My wife is. We both work at it. It is a good business.

Would all Canadian Tire dealers say the same to you across Toronto? Of course not. They are the greatest bunch of individuals you have ever seen. Hardly any of us agree on anything. That is true, and I am sure the two dealers who are here in Thunder Bay do not want Sunday shopping. Maybe they do. I have no idea. I have not asked. But

in my marketplace, for my store, I believe it is correct. Why? If you sit in my store on Sunday morning, the phones ring incessantly from dawn until 12 o'clock, and I got into the habit of just picking up the phone and saying, "The store'll be open at 12 o'clock." People say, "Thank you," and hang up. We have put an answering machine in now; it is easier.

Who comes in on Sunday? Mill workers, nurses, doctors, ambulance drivers, merchants, lawyers—everybody. MPPs come. Town councillors come. The mayor comes. Government employees come—moms, dads, kids, families. Sunday is actually family shopping and it supports what Mr Duggan was saying this morning: shopping is one of the three most popular activities for a family on Sundays. It is a reality in Kenora. Elsewhere, I do not know. That to me is not germane. I am worried mostly about my staff, my store and the viability of my business.

We have tourists of all kinds who come also: camp owners who need something for camp to fix it—a package of screws, a new water heater, a screen-door hinge, whatever. We have campers who have been rained out, especially this summer—they have been rained out all summer—and need something dry for camp. We have travellers on the way through. They need a wheel or a tire for a trailer, or they have to replace a broken towrope for waterskiers or whatever. In the end, these customers have increased our sales 7% on an annual basis. It was 14% last summer, because we were only open on Sundays for half a year.

I want to be particularly careful to address the staff issue on Sunday work. Long before I went to town council, I sat with my staff several times and we discussed whether we should be open on Sunday, because I did not want to go to council, get approval to be open on Sunday and then not have anybody to work. I sat with the staff. We had proper paperwork drawn up and then we talked about the staff being able to sign, without prejudice, whether they wished to work or did not, and we were very careful to explain to them what "without prejudice" meant. It meant they could sign "I don't want to work Sunday" if they chose, without any prejudice from me whatever, without any risk or fear of having a backlash, getting canned, or without any force.

The bottom line, as I described to chamber when I approached it and to council, was that more than 90% of my staff signed on. They believed, like I did, that it would be good for our business, and that therefore, in as much as we have a substantial profit-sharing program in my store, as most Canadian Tire dealers do, it would be good for them on their bottom line. It certainly has proved to be that. Profit sharing went up 22% last year, a substantial amount of money.

My store on Sundays currently is directed, if you want to call it that, by one core staff, sometimes two. Beyond that, the store is operated totally by 11 or 12 students. They are good students. Do we have trouble getting kids or adults to work? No. There are lots of people who want to, and lots of people who do not want to. That is fine; they do not have to work. But there are lots of people who do want

to work. I even have a minister's wife who works in my store on Sundays.

I do not accept rhetoric, especially old rhetoric, that this is going to degrade family values. I have not seen that in the families that work for me. I have not seen that in Kenora at all. I think the impetus for Kenora's economy of a vibrant Sunday provision for our tourists is that it has been a boon to our economy, rather than deleterious to it.

With increasing sensitivity about the environment around us, especially in places like Kenora, Thunder Bay and Sault Ste Marie, a lot of people are having trouble. Steel mills are having trouble. Paper mills are having trouble. The newsprint industry is no longer growing and vibrant and is no longer permanently ensconced in the fabric of northern Ontario. The writing is on the wall. Many mill towns in the north will not have a paper mill in the year 2000, and I pray to God that does not include Kenora, but it may. Boise Cascade is not vibrant. They are operating very tight-reined in our mill in Kenora. They certainly are not in a position where they can be optimistic and overly generous. Their budgets are extremely tight and they are operating their mill very close to the line. It is all too commonplace that industries shut down and leave little towns like ours to die. We do not want that to happen in Kenora.

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One of the best options we have in developing other industry and commerce is tourism. Many people are dedicated to that. We have an excellent Wintermission in the wintertime. It is all privately generated. On the July 1 weekend we have a fine Harbourfront Festival. It is a major tourist attraction. Thousands of people come there. The LOWISA is an annual water festival that starts on the long weekend of August; it just started this past weekend. LOWISA is the Lake of the Woods Sailing Association. It is a one-week sailing cruise all around our gorgeous lake. It attracts tons of people. They depend on us to be there when they start and when they finish, and they call us by radio on the lake all through the day, day and night. Kenora Bass International is a catch-and-release bass tournament that has been built over the last three years. It is now a \$1-million event in Kenora. It operates on Saturday and Sunday. We have to be there Sundays.

These events are often spearheaded by business people concerned for tourism in Kenora, and they are aimed at offsetting Sunday shopping in the United States, GST-free shopping in the United States, Sunday shopping in Winnipeg and a new highway bypass that has impacted heavily on Kenora this summer.

Tourists attracted by events of this nature want Sunday shopping. It is part of the lifestyle. I am convinced of that. Indeed, shopping is now listed as one of the top three forms of individual and family entertainment.

In contrast, a common pause day, with everything closed except for the corner store, would be a sharp regression to what are bygone days. In Kenora, many part-time jobs would be eliminated, 12 in my store, and the economy would shrink in direct proportion. In the case of my Canadian Tire store in Kenora, the annual shrinkage would be in the order of 7%. The actual shrinkage in the summer

would be 14%, because that is the share of annual sales occurring in my store on Sundays when we are open in the summertime. The equivalent sales revenue and the wages that result from those would migrate back to Winnipeg or International Falls or wherever they have come from.

I ask this committee to help us make sure you do not take away our Sundays. In a small town like ours it is critically important.

A common pause day has long been a plank in the NDP's platform. For Kenora in the 1990s, a mill town and a tourist town, restricted Sunday shopping has been a boon to the economy and the part-time workforce. The government's provision to allow some stores to stay open in some tourist areas, providing they are smaller than 7,500 square feet, is discriminatory. My store is bigger than 7,500 square feet. Over half of all my sales are to tourists. How in the world can you reconcile a provision like that in the regulations? I cannot.

I hope that down the road, as this all settles out, you gentlemen in your wisdom will make provision for areas like Kenora and that the people within the community who know what is going on best can make the decisions that are germane, that are good for the community. I believe these decisions should remain in the community.

Finally, before I make my recommendations, I would like to focus on one other issue. Often it is said: "Keep those big guys closed. They're the bad guys. Let the little guys open." It is not a big store-little store issue, gentlemen. It is a good merchant-poor merchant issue largely. On Saturday afternoon at 2 o'clock this past weekend I could not get a package of film copied into prints. The half-hour photo machine is not working on Saturdays. I cannot buy flowers on Friday night in Kenora unless I go to the Safeway store.

Lots of our small merchants do not wish to be open Friday nights, Saturdays and Sundays. So be it. I do not have any qualms with that, and I know full well, having been active in chambers and business improvement areas over the course of 20 years, that there will never be unanimity in that regard. There does not have to be. Let the customers decide. In my store they have decided up front with their dollars and they have made Sunday the number one day in my store.

For recommendations, I would like to recommend that to regulate Sunday shopping should be an issue that remains within the community. I would like the government to provide the necessary umbrella protection to look after the workers to make sure they cannot be exploited. My staff all get time and a half on Sundays. The managers get a good bonus on Sundays. They get profit sharing. They do not get exploited. They do not have to work.

I suggest the government's focus should be on looking after the worker, not on regulating the initiative of the entrepreneurs in this province. I beg the government to leave the existing law alone. Let the communities decide. Focus instead on looking after the workers, not trying to regulate their lives.

Mr Daigeler: Thank you very much for your very interesting and quite forceful presentation. I guess I am right in concluding that you support the Liberal legislation

and that we should stay with the wisdom of that legislation and leave it alone. Would that be correct?

Mr Pote: I would say the chamber of commerce would support that position.

Mr Daigeler: And Mr Bishop as well?

Mr Bishop: The law has worked well in Kenora in my view.

Mr Daigeler: The law is that it is a municipal option. If a municipality decides that is what its people want, it has that right. I think that is what you are arguing.

Mr Bishop: Yes, sir.

Mr Daigeler: Did you make a presentation at the time that legislation was put in place? It was very controversial then.

Mr Bishop: I am not sure if the legislation had been challenged at that point in April of last year. I made my initial presentation to town council on April 5, 1990. I am not sure if the legislation had been challenged or not.

Mr Daigeler: You were not involved at the time the Liberal government changed the Conservative legislation, so it is a relatively new involvement for you. Could I ask what it is that made you become involved now?

Mr Bishop: In April a year ago we had a new bypass being built on our highway around Kenora, and I was very concerned about the negative impact of that on our tourist trade. Coincidentally the economic development corporation of Kenora had just then published the results it had been collecting from two prior impact studies it had done on the highways on each side of Kenora. It was only published in late April of last year and it was only then quantified, using their data and new ministry models, that the tourism spending in Kenora was more than half of all the dollars. Nobody knew that.

When I discovered that, I took off like a rocket. I said, "This is incredible, scary, and we have to react to this." Nobody knew prior to early last year that more than half of all the tourist dollars came from tourists coming to and through Kenora. It had never been quantified before, I do not believe. That was the impression I got.

Mr Carr: Thank you, gentlemen, for your presentation. Mr Bishop, you said it is your belief—you used the 7% for half a year—that the revenue you are talking about is new revenue coming in that you would not otherwise have. What would you say to a government, and in fact to a Premier who I understand is going to be in this town today, which says it knows better than you about revenue and that it will only be extended over other days, that you are wrong, that it is not new revenue?

Mr Bishop: My store is open all the time and they are quite welcome to come and look at my information and data. It bears scrutiny.

Mr Carr: So that definitely is new revenue. You may be aware of the legislation saying that for the tourist exemption they have to have a letter from the chamber in support before they go to the municipal council, saying the chamber is in favour of it. What is the chamber's position on that? We heard from the Ontario Chamber of Commerce that it was not consulted, that in fact it does not

want to do it. In some communities, they may be open to litigation regardless of what side. If somebody wants to open they will say, "You went to council against our wishes," and so on. What is the chamber's feeling about being involved and being thrust right in the middle of this when it goes to municipalities?

Mr Pote: I do not believe the chamber of commerce would have any problem with that, especially in Kenora. As I mentioned, there are only six locations we had to deal with anyway.

I just want to mention one thing about the SAAN store and how they have dealt with it. I talked to him before I came down. He came with Mr Bishop to make the presentation to the chamber originally. What he did was hire people specifically to work on Sunday. I am sorry, I am ex-topical here, but I thought it was important. He said that if this legislation changes, these five or six people who were hired specifically to work on Sunday, at new jobs, are worried now that they will lose their jobs. They are quite concerned about this legislation coming down, and that is how he dealt with getting people to work on Sunday. He hired specifically for that day.

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Mr Carr: With yours, I think you said 70% of the members want it now, according to surveys.

Mr Pote: Based on what we have from Mr Bishop's proposal of the 12 till 6, and town council voted to extend the whole year. Mr Bishop has elected to close his store on Sundays in the off-season, as I understand, but it is not required.

Mr Morrow: Mr Bishop, I would like to personally commend you for the way you have treated your staff on the Sunday shopping issue. I think that is fantastic. You should really be congratulated. Another comment I would like to make to you is, yes, we are listening, that's what this whole process is about, to help us make guidelines.

Last Wednesday the Ontario Chamber of Commerce presented a brief to us in Toronto. In that brief there is a line stating that the majority of surveyed retailers would prefer not to be open on Sundays. Are you telling me now that you are basically going against what your parent organization is saying?

Mr Pote: They are not our parent organization; we operate independently. We are a member of the Northwestern Ontario Associated Chambers of Commerce. But there are a lot of retailers, and I think that is probably the case in Kenora, who do not open on Sunday, and that is not the issue. The issue is the right to be open on Sunday.

Mr Morrow: You should also know that Collingwood just passed a bylaw allowing them to open on Sundays. We were there last Thursday, and I believe 35% to 40% of the retailers are open, which means 60% to 65% of the retailers are closed, so basically that says to me that 60% to 65% of the retailers would prefer not to open on Sunday.

Mr Pote: I would not doubt that is the case, but it is still an issue of the right to be open.

Mr Mills: Just a point of clarification under the tourism criteria: Mr Bishop, even though your store exceeds

7,500 square feet and exceeds eight employees, if you meet those criteria, notwithstanding everything else, you would still be allowed to open. I just want to clear up any misunderstanding you had that you thought you would not.

Mr Bishop: I did not hear what you said on the employee aspect, sir.

Mr Mills: If you meet the tourism criteria and your store exceeds 7,500 square feet and exceeds the eight employees, providing you meet those criteria and you made application to the municipality to be considered to open, then you will be open. I just wanted to remove that doubt, that you thought you would never be able to open. The provisions of the tourism criteria will allow you to open providing they are met.

Mr Sorbara: Just a point of clarification arising out of a question from Mr Morrow: I would not want the presenters here to be misled about what we heard in Collingwood. A number of businesses decided that they would not open on Sunday, but from what I heard in Collingwood, the vast majority of retailers said to us that notwithstanding that they themselves chose not to open on Sunday, they wanted the unrestricted freedom to be able to do that without interference from the provincial government. I do not think Mr Morrow should be telling our presenters that the majority of retailers in the Collingwood area supported this legislation. From what I heard, the majority of retailers and the majority of people were saying, "We will make the decision."

The Acting Chair: All he said was that they chose to stay closed. He was drawing his own assumptions from that.

Mr Pote, Mr Bishop, on behalf of the committee, thank you very much for coming here today.

BOB MEYERS

The Acting Chair: Our next presenter is Mr Bob Meyers from the town of Kenora. Thank you for appearing today. You will be given a half-hour for your presentation. You can either use the full half-hour for your presentation or else submit a shorter brief and then allow time for questions and comments from all three caucuses. Could you please identify yourself for the record and then proceed.

Mr Meyers: My name is Bob Meyers and I am the chief administrative officer for the town of Kenora. I appreciate the opportunity to speak to you today and the fact that the committee has journeyed to northwestern Ontario, although not quite as far to the west as we would have liked, to hear the view of northerners.

I think it was Bob Dylan who wrote the words in a song, "The Times They Are A-Changin'," and as I look at the members of the committee I would say that all of you have been around to see the following changes which have occurred in Ontario in the last 30 to 40 years: Sports are now legal to be played in Ontario on Sunday, both professional and amateur. It is now possible to go to a movie theatre or to see a concert or a live production on a Sunday in Ontario. It is now possible to have liquor served with a meal in Ontario on Sunday. It is even possible to play bingo on a Sunday in Ontario. There was a time in Ontario

when all of those activities were illegal, and it was not that long ago.

Business people like to talk about the global economy, about the external pressures that face the local business place in even the smallest of communities throughout Canada, and in particular, speaking to you today, in Ontario. In looking at neighbouring jurisdictions that border the province, I would say to you that Ontario can no longer isolate itself, nor its government think that by legislation it can isolate the Ontario marketplace from what is happening elsewhere in North America, and in particular from other jurisdictions that border on Ontario.

In the legislation that was in existence in 1985, section 2 said, "Every person carrying on a retail business establishment...shall ensure that no member of the public is admitted thereto and no goods or services are sold or offered for sale therein by retail on a holiday." In subsection 2(2) it said, "No person employed by or acting on behalf of a person carrying on a retail business in a retail business establishment shall, (a) sell or offer for sale any goods or services therein by retail; or (b) admit members of the public thereto, on a holiday."

I would ask you if you ever had occasion to call a local businessman after hours, on a Sunday or a holiday because of the need for materials to effect an emergency repair. In doing so, you were asking that retailer to break the law.

The act then went on in section 3 to provide a number of exemptions. When we looked at the town of Kenora and applied the exemptions, the majority of business establishments within the town had been exempted by legislation from having to remain closed on a Sunday or a holiday.

In 1987 the province made amendments to the Retail Business Holidays Act by way of chapter 36 of the statutes. The exemptions under section 3 were amended, and in looking at what was done, the major change was that the total selling area was increased from 2,400 square feet to 7,500 square feet when it dealt with foodstuffs, newspapers, antiques or handicrafts and from 5,000 to 7,500 square feet when dealing with pharmacies. These changes increased the number of businesses in the town of Kenora that could remain open on Sundays and holidays by virtue of the merchandise sold and square footage of their establishments.

However, it was not until 1989 that the substantial change was made in chapter 3 of the statutes, which now set out that a municipality by bylaw could permit retail business establishments to be open on holidays or require that they be closed on holidays. It set out some criteria which the municipality had to follow in establishing the bylaw.

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Kenora council was approached in April 1990 by a progressive, and, I would add, aggressive, businessman to implement a bylaw that would allow shopping on Sundays and holidays between the Victoria Day weekend and the Labour Day weekend, essentially for the summer season. In deliberating in committee as to what council was going to do in response to this request, it was decided that in line with our thinking that we have the potential to become a four-season tourist community, we should draft a bylaw that would permit opening on Sundays and holidays from

12 noon to 6 pm with the exception of three religious holidays: Christmas Day, Good Friday and Easter Sunday.

The criteria set out in the act were followed. The intent of the bylaw was advertised and the public meeting was advertised. We chose a venue that would be large enough to hold a substantial crowd of people and we also established some ground rules by which the meeting would be conducted. The councillors who were in town, plus the clerk, the deputy and myself, were on stage. The purpose of the meeting was announced by Acting Mayor Nancy Salmijarvi and the ground rules were announced. We would be willing to listen to speakers from both sides, from the pro and the con, in an alternate fashion and we were there to hear all who wished to speak.

It was an orderly meeting, unlike others that had been held in the past. I would attribute that to the fact that we had announced a set of guidelines for the conduct of the meeting and also stated that council was not there to debate the matter. Council was there to listen to the representations of the people who wished to speak to the issue.

In all honesty, I was not surprised that those speaking against the bylaw would not consider openings on any Sunday or holiday. To them, it had to be a complete ban. There was no willingness to concede to a limited opening or to a limited period of time for opening. Those speaking in favour were supportive of the position council had taken, even though it had extended beyond their original request.

The matter came back to council at a public meeting about two weeks later. There were delegations before council that night who knew the matter was on the agenda and who wished to address council on one more occasion and did so. The town of Kenora adopted a bylaw to permit openings on Sundays and all holidays with the exception of Christmas Day, Good Friday and Easter Sunday from the hours of 12 noon until 6 pm. The result is that a few more businesses are open now during the summer months. A few of the smaller businesses which used to be closed are opening because some of the larger businesses are open. The larger businesses are acting as a draw from which the smaller businesses are benefiting. There is no compulsion to be open. The bylaw does not say "shall." It says "may."

The businesses that have been opening on Sundays and holidays report that Sunday shopping has increased the amount of business they do on a weekly basis. What is now being sold on a Sunday is not detracting from sales on any other day of the week. They all reported that they have hired additional staff to be able to maintain Sunday openings.

I would note that last year when there was a question as to the legality of the bylaw by virtue of the court decision concerning the amendments to the Retail Business Holidays Act, the larger businesses and some of the smaller businesses approached me with respect to whether they had to conform to the municipal bylaw or if they could open as they pleased on the Sundays and holidays and disregard the limited opening we had set. When I advised them that council would not be pleased if they went beyond the conditions set out in the bylaw, they agreed to abide by the bylaw as it was passed. While stores of the

chains were opened for longer periods in other communities close to us, in Kenora they abided by the conditions from 12 noon until 6 pm.

They did in one case ask if they could open for longer periods on the Sunday between Christmas and New Year's and I said no, the bylaw was specific from 12 noon to 6 pm and we would appreciate their adhering to the bylaw. When the lower court decision was overturned and we were back to a valid bylaw again, we continued on as we had in the past and continue to do so at this point in time.

The legislation and regulation that have been proposed will have little effect on the town of Kenora. I believe we can meet all six conditions set out in the regulations for characteristics. Therefore, by virtue of our tourism industry, we would be permitted to have Sunday and holiday shopping.

I believe, unfortunately, that the regulation in subsection 2(1) is attempting to curtail legitimate business activity by placing restrictive criteria in place, hoping that those areas that are now open because of the size of the business and the merchandise that is offered will not be able to be open. The regulation is imposing upon municipal councils an unwarranted responsibility to have to determine whether a merchant's activities meet one of the four criteria. It would be quite simple to circumvent the regulation by saying that all businesses qualify by virtue of paragraph 2(2)(c)4 "Provides goods or services necessary to tourist activities in the area served by the establishment."

As to whether the next council will be as forward-thinking as the present council in passing another implementing bylaw remains to be seen, because the proposed legislation does require that one year from the date of the passing of the legislation the current bylaw become null and void. I believe the experience we have had in Kenora, to this point in time, has been good. I believe all the gloom and doom predicted for the destruction of family life, the deterioration of church attendance and the imposition upon workers to give up what free time they have in the course of the week has failed to materialize. I do not expect that will change.

If the Legislature is serious about doing something about Sunday shopping, then I would suggest you do nothing. Leave the legislation as it is. I suggest to you that if you wish to do something of a positive note, you would do it in favour of protecting the rights of employees. That should be sufficient to determine whether a business is going to be able to remain open or be closed. If they are not able to get sufficient employees, then it will not be possible for them to remain open and provide service to the community that the buying public expects. The legislation proposes to do this with section 39e.

I believe you have to look at where Kenora is situated. Our competition comes from two sources. Kenora is two and a half hours out of the city of Winnipeg, which has limited Sunday shopping. We are two and a half hours away from the United States border and International Falls, five hours away from Duluth, seven hours away from Minneapolis and five hours away from Grand Forks. I can tell you that people are out shopping, and they are

doing more of it now that Minnesota and North Dakota are open on Sundays.

I realize the government is under some pressure by virtue of an election promise. I would say to the members of the government party that you have a far greater breadth of knowledge at your disposal today upon which to make decisions than you did during the campaign. I would ask you to use that knowledge impartially and in the best interests of the residents of Ontario, in particular for the business community which is supporting this government, and municipal governments, through tax revenues.

I have also enclosed a copy of the bylaw that was implemented by the town of Kenora on May 28, 1990.

Mr Sorbara: Mr Meyers, first of all, your brief is succinct and to the point and we appreciate it. I should say that specifically on page 8 the middle paragraph describes the realities of what happened in Kenora subsequent to the passing of your bylaw. That has been repeated in community after community around the province, either by virtue of the passing of a bylaw or by virtue of the court decision which allowed a period of glasnost, if you like, for nine months, where store owners could decide on their own what they were going to do. It is also nice to see that you are using Bob Dylan as the opening authority in your document.

Interjection: He was born in Kenora.

Mr Sorbara: No, he was not born in Kenora.

Interjection: Minnesota.

Mr Sorbara: You are the chief administrative officer for the town of Kenora?

Mr Meyers: Correct.

Mr Sorbara: You have nothing riding on this in terms of a political career, do you?

Mr Meyers: Not at all.

Mr Sorbara: You are not a storekeeper?

Mr Meyers: No.

Mr Sorbara: Really you are an impartial commentator on what has happened in Kenora.

Mr Meyers: That is what I have attempted to be.

Mr Sorbara: If the government were simply to say, "We're going to put this legislation on hold, in fact we're going to repeal the bad old Liberal legislation and have no legislation at all," is it not the case that the town of Kenora, under the Municipal Act, would still have the authority to regulate hours of shopping on Sunday as it does on every other day?

Mr Meyers: We do not have the right to regulate hours of shopping on any other day. That has been attempted and most of that legislation has been overturned or court decisions have gone against municipalities on rulings of that nature by attempting to restrict hours of business.

Mr Sorbara: But is it not the case that you have some authority to deal with hours of business in your community? My understanding was that municipalities still have that authority.

Mr Meyers: They have attempted to, but it is permissive legislation. The working word is "may" rather than "shall." It would be nice if the business community would

come to common hours and that they were all open at the same time.

Mr Sorbara: But the marketplace sometimes determines that.

Mr Meyers: That is correct.

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Mr Sorbara: If the bill we are considering passes, it will be the case that stores larger than 7,500 square feet are going to have significant hurdles in attempting to open in the town of Kenora. Is that not the case?

Mr Meyers: That is the case and I think I referred to the particular section that gives me problems, when I look at it. That is in the regulations. I think the government is trying to duck by doing this particular section by way of regulation rather than by way of legislation.

Mr Sorbara: Part of the draft regulation provides that a store that is larger than 7,500 square feet would have to get a letter of support from the local chamber of commerce or the local convention and tourism bureau, if there is one, prior to making an application to the municipalities in order to stay open. In your own experience, what kind of dilemma would that create for the local chamber of commerce or the local visitors' bureau?

Mr Meyers: In the case of the chamber, it supports the position council had taken a year ago, and I believe it would support it again by virtue of the evidence that is now in. Our publicity board supported it last year and I believe it would do so again.

Mr Sorbara: But if an application came from, say, the local Safeway or Loblaws or some other supermarket and the chamber of commerce for one reason or another denied support to that particular establishment, what do you expect would happen?

Mr Meyers: You are asking me to speak on a decision the council might make. That would be like asking one of your assistants to say how you would vote on a particular bill.

In the case of Kenora's experience last year, I think it was not unanimously passed by council. Council did deliberate on it and they did stand and state their position when the vote came. I think the members would have to look at the application as it came and make the decision on their own.

Mr Jackson: Maybe I could build on that. It is an area of concern I have. As I understand it, the difference between an improvement area and a chamber of commerce in the city of Kenora is that it is mandatory to be members of the improvement area, but it is not mandatory to be members of the chamber of commerce.

Mr Meyers: A business improvement area is one that has been set up by a group of businessmen who agree they are going to a tax levy to do promotion and improvements within their area. All businesses within it must belong, whereas a chamber is voluntary.

Mr Jackson: You agree with what I just said.

Mr Meyers: Correct, but I think you needed that explanation.

Mr Jackson: We are familiar with the legislation. I just wanted to establish that there is a distinction between a chamber of commerce and an improvement area in terms of the mandatory representation. In the associations in which I have been associated in my career prior to politics, governments from time to time have been very careful not to put organizations in a power position where there is a cost associated with membership.

I would certainly like to hear from legal counsel how a group can act in the best interests of the given jurisdiction when in fact it has membership that is voluntary. We are not even sure what their jurisdiction is as this legislation sets it out.

To be consistent, we should be saying that all businesses should be members of the chamber of commerce. Therefore, they are in no conflict of interest, because all members are members. This is where I am having trouble with this draconian approach which is fraught with abuse. We would not allow it in the labour sector. Why we are allowing it in the business sector is beyond me.

Mr Meyers: On that point, there are 48 municipalities in northwestern Ontario and I believe there are only 19 or 20 chambers of commerce. What a municipality would do in that particular case I am not sure.

Mr Jackson: We both have that question and perhaps legal counsel can straighten us out.

Mr Carr: Thank you very much for a fine presentation. As you may know, the government has said there are not any increased sales or additional people hired; it is just spread out. But I think I heard you say your experience has been (1) that there are increased sales that would not otherwise have been there, and (2) that there are additional people hired who otherwise would not have been hired. Is that what you were saying?

Mr Meyers: Yes. When Mr Bishop made the presentation today, he made that quite clear to you. The manager of the SAAN store called me just after Christmas to ask what the town was going to be doing or what I thought the province might be doing by way of legislation in light of the court decision that we were waiting for, because he had recommended to his management that they needed two additional full-time staff to be able to maintain Sunday shopping.

I said we were going to abide by the legislation, by whatever came down, but in the meantime that we were sticking to the Sundays and holidays from 12 to 6. On that basis, he hired two additional full-time people.

Mr Carr: One of the concerns that has been raised by the government—and it is kind of ironic that it is worried about the taxpayers after introducing a budget that has saddled us with the biggest deficit in the history of this province, but none the less, it is concerned about the taxpayers—is that the municipalities will have extra costs as a result of snow removal and bus services in the larger communities. How will you see that affecting you? Are there any additional costs you will be looking at? If so, would it be offset by the increased number of sales businesses would have? How do you see that working from a purely economic standpoint?

Mr Meyers: I do not see any additional cost related to snow removal. We have to remove the snow seven days a week to maintain bus routes, fire protection and ambulance routes to the hospital, just movement of traffic, so that is not going to change. Our buses are run on a reduced schedule on Sunday. We have had no request to increase that scheduling.

Mr Fletcher: Thank you for the excellent presentation. Just a question as far as the employees are concerned: You do not have a problem as far as Bill 115 is protecting the employees and their right to refuse work on Sunday.

Mr Meyers: Not at all. I think that is a right that has to be protected. I do not think any employer who is going to consider the impact on his business is going to want a disgruntled employee meeting customers. He is going to want somebody who is willing to be there.

Mr Fletcher: Right now, in Kenora, is the police force on a reduced work schedule on Sunday?

Mr Meyers: No, they are not.

Mr Mills: I have listened with a great deal of interest and would like to offer the suggestion that as per Sunday shopping, things in Kenora are not quite as rosy as portrayed here. I have some press in front of me. I am quite concerned about a couple of things.

At that meeting you held, the president of the labour council said, "It seems time and time again councils do not listen to the majority, so maybe we have to replace the councillors after the vote." What perturbs me is what you say in your presentation, as to whether the next council will be as forward-thinking. Is that meant to be that if there is labour representation on the council after November, it would not be as forward-thinking? Maybe you can help me. What do you mean here?

Mr Sorbara: No doubt about that whatever.

Mr Mills: I just want it on the record.

Mr Meyers: We have had labour representation on council before. In fact, one of the previous members who was a labour representative on council is now our federal member. He is actively promoting a young man to run in this coming November election.

On forward-thinking, I think we have to look beyond the Kenora of today. We have to look at the impact on Kenora of tomorrow. We want to establish ourselves as a four-season tourism destination point. Sunday shopping would be important to that goal.

Boise Cascade employs about 800 people in the mill. The paper industry is not going through the rosiest of times right now. We have to look at the future. The second thing we have to concern ourselves with is what we are going to be doing to sustain the town of Kenora if we were to lose that large segment of our labour force. Sunday shopping will not do it all, but we have to protect the large commercial-professional establishment we do have and benefit from in the town of Kenora.

Mr Mills: I see that the Woolco store does not believe in Sunday shopping. They have a store in Kenora. They say it is up to the head office to see if they will open.

Safeway is in a bit of a bind because it does not want to pay a premium to work on Sunday.

I have heard the positive presentation from Mr Bishop from the Canadian Tire. Notwithstanding that, the press tells me that all in all people are not jumping for joy in Kenora about Sunday shopping. I wonder if you could, rather swiftly or succinctly perhaps, tell me if I am on the right track.

Mr Meyers: The only thing I can tell you is that the people who spoke against Sunday shopping at the public meeting and again at the council meeting—I am surprised to greet them then in the stores I go into on Sunday to shop.

The Acting Chair: Thank you for taking the time to come and give us your presentation.

1400

LAKE OF THE WOODS TOURISM CENTRE

The Acting Chair: Our next presenter will be from the Lake of the Woods Tourism Centre. Good afternoon. You will be given a half-hour to do your presentation. You can use the full half-hour for your presentation or you can submit a shorter brief and then allow time for questions or comments from each of the caucuses. Please identify yourself for the record and then proceed.

Mr O'Flaherty: My name is John O'Flaherty. I am past chairman of the Lake of the Woods Tourism Centre. I speak to you today as a representative of the board of directors of the Lake of the Woods Tourism Centre of Kenora, Ontario. My comments today will be directed in support of seven-day shopping.

Our organization was formed some 40 years ago with the intention of promoting tourism and industry in Kenora and surrounding areas. We are a membership organization with over 140 businesses as partners in our endeavours. These businesses range from accommodation sector resorts, hotels, etc, to small and large retail businesses of every type.

In the last 10 years the Lake of the Woods Tourism Centre has been charged with the responsibility of co-ordinating and implementing local special events, such as July 1, and assisting in the promotion and implementation of many other events in Kenora in addition to our promotion-oriented activities. The last two years have seen us take on the responsibility of the Kenora harbourfront committee as well.

With our recent reorganization, the board has held two strategic planning sessions, in April 1989 and January 1991, in order to solidify our purpose and to set out the future direction as a guideline for us to follow.

I would like to read to you the mission statement developed, which is, in a nutshell, the essence of the Lake of the Woods Tourism Centre. Through our efforts, we hope to induce and increase tourist traffic throughout the area, thus increasing the local tourism-based economy as well as enhancing the lives of our residents.

"The purpose of the Lake of the Woods Tourism Centre is to increase the benefit of tourism to the area by: Marketing the physical and commercial assets of the tri-municipal and surrounding areas; fostering a working rela-

tionship among all partners; generating a positive attitude toward tourism with the communities; promoting tourism as a renewable resource, resulting in the creation and maintenance of jobs on a year-round basis; assisting in the development and implementation of community visitor-related events; encouraging forward thinking and planning in the tourism industry."

Once again, I want to reiterate that this is the summation of our purpose and establishes the reasons we exist.

When the issue of seven-day shopping in Kenora, and now in a broader sense with the province of Ontario, came to our board table, it was met with a certain amount of hesitation. Initially, the board felt that as a subcommittee of the town of Kenora, the final decision should have rested with council alone and that we should not take a position on the issue. Upon further discussion, it was decided that if we are to take our jobs seriously, we must discuss and present the board's view on this situation.

It is our contention that the various organizations that have representatives on our board—namely, the Kenora District Campowners Association, the Kenora Innkeepers Association, the Kenora and District Chamber of Commerce—together with the six town-appointed citizen-at-large representatives, have given us an important, critical responsibility. It is then our duty within this mandate to determine and oversee the promotion and marketing of tourism in Kenora.

I do not think I have to repeat all the available information which you will be receiving from the Lake of the Woods Economic Development Corp, but I wish to stress the importance of tourism to Kenora's economy. We play host to over one million tourists a year. Tourism supplies over 3,200 jobs in the area. Tourism generates approximately \$154 million in wages, roughly four times that of Boise Cascade, our largest employer. Tourism generates over \$200 million in visitor revenues and generates over \$14 million in municipal taxes alone. There is no doubt that Kenora is the major service centre of the Lake of the Woods area. As such, we must promote ourselves as just that.

Given the preceding information, our board of directors once again refers to our mission statement:

"There is no doubt that allowing all retail businesses to remain open seven days a week would: (a) result in the creation and maintenance of jobs and (b) increase the economic impact of tourism and (c) would better serve the needs of our visitors and residents."

In Kenora, we have the history to prove that seven-day shopping is successful. You have already heard from one local business person and our chamber of commerce. It has clearly been proven in Kenora that Sunday shopping has been well utilized by both our visitors and our residents. Thus it stands to reason that extra sales mean jobs. Many communities in the north are currently facing job losses. In some cases, these losses are of traumatic proportions. We simply cannot stand by and allow jobs to decline and possible economic stimulus to not happen.

The town of Kenora council, after a great deal of consultation and consideration, made a tough decision and, we feel, a right one. They saw the value of seven-day shopping and

made a decision based on that vision. That decision has benefited the entire community. It provided extra services to all our important visitors but at the same time provided convenience to our many residents who were able to take advantage of the extra service time provided to them by retail establishments being open for business seven days a week.

During the ongoing consultation process there were many many residents who supported opening for seven days and who, because of job orientation, religious pressure and so on, could not openly support. Now it is a fact that in our community it is widely supported by visitors and residents alike. It is imperative that these operations at a minimum continue with the status quo if not be allowed to expand their hours of operation.

The board of directors of the Lake of the Woods Tourism Centre wish this committee the best in its deliberations and are confident that it will see to it that the economic viability and stability of our area and the entire province continue to prosper.

I would just like to leave you with this little cliché which is typical of me, "If it ain't broke, why fix it?" I respectfully submit that to you.

Mr Sorbara: I will begin with a question that I would like to have asked Mr Meyers as chief executive officer of Kenora. He talked about the passing of the bylaw and the debate that went on leading up to the passing of the bylaw. Many communities, by the way, have undertaken those debates, and sometimes they are very painful, but the proof is really in the aftermath of the passing of that sort of bylaw. So I want to ask you whether in your own experience, subsequent to the passing of this bylaw, and stores that chose to open on Sunday have opened and have been available and have been doing business, has there been a strong reaction in Kenora? Are groups organizing to try to get these stores closed again? Is there evident strain on family life? Is there a deterioration in the quality of living in Kenora and the surrounding area?

Mr O'Flaherty: No.

Mr Sorbara: Has anyone complained?

Mr O'Flaherty: Not to me personally.

Mr Sorbara: Are there letters to the editor in the local newspapers about how terrible this is?

Mr O'Flaherty: From the usual people who send letters, yes, but I guess as a rule of thumb, not really. It seems to be going over quite well.

Mr Sorbara: Has there been any collective expression by working people, retail workers, who are upset that they sometimes work on Sunday?

Mr O'Flaherty: I have heard of some people, but again, those are the usual people who would complain about something like that. But as a rule, no. It seems to be going over quite well.

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Mr Sorbara: You are the past president of the Lake of the Woods Tourism Centre. In your view, has the decision that Kenora made to establish some Sunday shopping been of a benefit or of a detriment to tourism in Kenora?

Mr O'Flaherty: It is definitely a benefit to Kenora.

Mr Sorbara: Has it generated employment?

Mr O'Flaherty: Yes, personally. Not with myself, but I have family members who have been employed because of Sunday shopping.

Mr Sorbara: Are they working against their will?

Mr O'Flaherty: No, they are doing it voluntarily.

Mr Sorbara: Are businesses opening on Sunday finding it difficult to attract customers?

Mr O'Flaherty: No.

Mr Sorbara: So there is a vibrant Sunday market?

Mr O'Flaherty: I would say so, yes.

Mr Sorbara: Your letterhead describes the Lake of the Woods area as "Ontario's Vacation Paradise." I tend to agree with you in that assessment, and obviously Kenora is the centre of an important tourism area in the province. If Kenora were not a centre for tourism, do you think it would be inappropriate for your stores to be open on Sunday? In other words, should you have the right to open your stores on Sunday only because you are Ontario's vacation paradise?

Mr O'Flaherty: I think they should be given the right, yes. Kenora is in a unique situation geographically. We have Boise Cascade. As it was pointed out earlier, they are a pulp mill. If we do not attract the tourists, we are going to end up like Kapuskasing.

Mr Sorbara: Okay, let's take Kapuskasing. Kapuskasing is not Ontario's vacation paradise. It is a nice place, but it is not a major tourist destination. Do you think the government of Ontario should discriminate in such a way that allows Kenora to stay open on Sunday but requires Kapuskasing to keep its doors closed on Sunday?

Mr O'Flaherty: No.

Mr Sorbara: Why not?

Mr O'Flaherty: It should be wide open. As pointed out, I am a firm believer that everything should be all equal.

Mr Sorbara: Let's not use "wide open," because no other day is described as wide open, but it should be a matter of choice, should it not?

Mr O'Flaherty: Yes, it should be choice, but there are some discriminating laws in effect right now that have to be adjusted. But yes, I agree with you on that point.

I would also like to make a comment on that. It may be out of order; the Chairman can rule me out if it is. We are allowing Sunday shopping, or it is in effect right now with the municipalities, yet we are allowed wide-open trucking on Sundays. The only thing that is banned right now is overweight loads. I just happen to work in that particular area, not as a truck driver but as a regulator of that sort, and there are no restrictions on it. So if the trucking industry can operate on a Sunday, clearly, why cannot a business person have the option of opening?

Mr Carr: One of the questions I have is, what will happen to some of the areas that do open because of tourism? Do you think there will be any pressure for the ball to start rolling if your particular area opens because it is a

tourist area, and even though it is a beautiful area and most people would come there on their own, there will be the competitive pressures for other areas that might not be as close to you but will be in the same vicinity and would say, "We want to attract tourists now. Kenora is open and the municipality is open," and so on? Do you see the snowball effect happening so that more of the Sundays will be open?

Mr O'Flaherty: In that effect, Kenora has worked very hard to become a destination location. If Kenora takes the ball and decides to go into Sunday shopping and works that into our destination location and the other communities feel that no, they cannot or they are not as vibrant an area as Kenora, then maybe there is a little discrimination in that effect. If the place is clearly not a tourist area and they want to be open, it will boil down to Kenora will probably get it. But then we all know what government works like—policy supersedes law—and maybe that small community can get it. But in my view, it boils down to they should be given the opportunity to open up.

Maybe an area that is not quite a tourist area could become one with the right stimulus from government and local business and private investment. Maybe it can become a tourist area, but they have to work at it. Kenora has worked at it for 100 years and we just happen to be in a unique location where we can work at it. I do not know what else to say.

Mr Carr: You have been successful.

Mr O'Flaherty: Yes.

Mr Jackson: I am surprised that we are not going to hear from native groups. I am maybe not that familiar with the kind of commercial activity that is occurring on reservation lands. Are you aware of it? I just asked legislative counsel, but the fact is that this law does apply to aboriginal peoples and their commercial activities. Were you aware of that?

Mr O'Flaherty: No, I thought they were a law unto themselves.

Mr Jackson: So did I until I asked the question, but we were led to believe that this government is treating them—I guess you do a lot of your commercial interaction in your region with native business persons. How do you think they will react to the notion that the municipalities, as set apart from their band councils, will be making those kinds of decisions which affect their commercial activity?

Mr O'Flaherty: I am sure it is going to come up for some lively discussions, but with previous experience with the local natives in Kenora, they seem to be taking the ball and going with it. They do own some tourist operations and quite frankly they are viable; they are working at it. As far as having a local municipality try and tell them what to do, we have tried that for years and it has not worked, so I do not anticipate it is going to work in the future. It is hard to say. I would rather dance around that question, thank you.

Mr Jackson: Mr Chairman, if I might ask if perhaps this matter should be clarified in a little more detail. I am not aware that it has come up in the briefings or the discus-

sions, but certainly the legislation appears to be silent on the matter and yet legal counsel indicates there are certain test cases which lead to the conclusion that perhaps the legislation is deficient in that it does not clearly state. Municipalities and in fact chambers of commerce may be in positions of saying no to aboriginal commercial interests in this province. I personally do not support that and would hope that somehow this legislation does not intentionally walk into difficulty because it is silent on that subject. So hopefully we will get back some information on this subject.

Mr Fletcher: As far as Bill 115 is concerned, exactly what is it that you disagree with?

Mr O'Flaherty: I think it is the fact that they are coming into making too many rules again. You are beginning to be too bureaucratic. I would like to say without prejudice, as I am a government employee, I deal—

Mr Fletcher: Yes, me too. I know what it is like.

Mr O'Flaherty: It is getting too much. It is a free country. If I have \$100,000 where I can open up a store and go out and sell to people, I should be allowed to do whatever I want within the laws.

Mr Fletcher: I can understand your saying that we cannot allow jobs to decline and we have to keep the economy going and it is important. I look at the people your organization represents: hotels and resorts. Do they buy Ontario produce? Do they buy Ontario products? Are they keeping the economy going that way?

Mr O'Flaherty: Our members of our committee in the innkeepers' association, it may be just local, but they do buy local. Kenora does seem to have quite a bit of out-shopping, but that is a different subject for another hearing. The majority of our members do buy local.

Mr Fletcher: So they buy all their meats and everything locally. The economy should be booming then.

Mr O'Flaherty: Kenora's economy is suffering like all of them, but I do not sit and write the cheques for all of them so I cannot really speak for them on that.

Mr Fletcher: You are not 100% sure on that.

Mr O'Flaherty: But I would say the majority of the owners I know do buy local.

Mr Fletcher: But if they had the option of going across the border to get a cheaper price, they would probably go across the border for the cheaper price, like any consumer, when they become a consumer. I know, that is just speculation.

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Mr Morrow: That was a fine presentation. To the best of your knowledge, has there been any job loss since Sunday shopping was appealed through the courts and the courts upheld it?

Mr O'Flaherty: Not that I know of at first hand, no.

Mr Morrow: Which would lead me to my second question, then. Do you feel that by opening on Sunday there would be job increases?

Mr O'Flaherty: I would say yes. It has worked in my family, so I do know that my relatives have been hired strictly to work Sundays. That is what they agreed to, that

is what they were hired on, because that happens to be the only other day they have open.

Mr Morrow: But we are not talking full-time employment.

Mr O'Flaherty: Oh, no; it would just be part-time.

Mr Morrow: Because I was just going to say you do realize that you are in direct contrast with what the United Food and Commercial Workers and the Canadian Auto Workers are saying on that point. Anyway, thank you very much.

Mr Mills: I am pleased to be here this afternoon to listen to your comments. I have said before and I will say again that we are here to listen and we are listening.

Mr Carr: That must be three times you have said that, Gord.

Mr Mills: I know, I am enforcing this because this is the process. It may not have been the process in the previous round of hearings on the same subject, but we are really listening. Having said that, I would just like to get some clarification of a statement that you made. I have before me a bit from the Daily Miner. It says, "Kenora—Only one of the largest stores in Kenora has definite plans to take advantage of the new Sunday shopping bylaw this coming weekend." On page 7 of your presentation you say, "In Kenora we have the history to prove that seven-day shopping is successful." My question to you, sir, is, what sort of history do you have that has proven that it is successful when only one store has indicated it wants to open?

Mr O'Flaherty: What is the date on that article?

Mr Mills: It was after the bylaw was passed. Unfortunately the date is cut off.

Mr O'Flaherty: Okay, so I am going by memory right now. I would say that was probably before the May long weekend.

Mr Mills: No, this is June 3, apparently.

Mr O'Flaherty: What long weekend is on June 3?

Mr Mills: I do not know, but they said it will be open as of June 3, that one store, and the other stores would not be open on that date.

Mr O'Flaherty: I still think it is referring to the May long weekend, as of June 3. That is, I think, when Mr Bishop's store opened back up again. The May long weekend has historically been one of the busiest weekends, because that is when all the Manitobans come in to open up their cottages, come down to see how Kenora did for the winter.

I would not say—and I am not saying it from an expert's point of view—that would be a prosperous weekend for them just to open up on a Sunday, because they may be paying out more in wages than they are bringing in, because the only people who may benefit are stores like Canadian Tire or Safeway if they happen to open. The smaller stores along the waterfront do not open at this point. There is no point in opening those stores up until the kids come down or finish school, because you are not going to get the grey trade or the senior citizens coming

through buying tie-dyed and fluorescent and pastel shirts and T-shirts and such. They are not going to buy them, so there is no point in opening up at that time. Anything opened up before the middle of June is going to lose money. So with that comment in the paper, I do not really know why they would make it, but if one opened up, there would have been a good reason for it.

I would just like to reiterate I stated that I work for the government. I also work at a tourist operation. I am the master of a tour boat in Kenora, and I do work Sundays the odd time, and I dock on the waterfront. There are stores that open on the waterfront, are busy on the waterfront, and it is proving itself. The people who come on the boat want to know what to do for Sunday. They do not want to go sit in a restaurant and a bar and drink and eat. They just want to shop around. As Mr Duggan pointed out, when you have a wife and two kids walking around with you, you want to find something for them to do on Sunday.

The Acting Chair: Mr O'Flaherty, thank you for taking the time out this afternoon and for your presentation.

LAKE OF THE WOODS ECONOMIC DEVELOPMENT CORP

The Acting Chair: Now I would like to call on somebody from the Lake of the Woods Economic Development Corp. Good afternoon. You will be given half an hour for your presentation. You can either make a full half-hour presentation or you can make a shorter presentation and allow time for questions and comments from each of the caucuses. Please identify yourself and then proceed.

Mr Treusch: My name is David Treusch and I am executive director of the Lake of the Woods Economic Development Corp.

At the outset I might mention that our organization has five members and we like to think our group is the distillation of all three levels of government as well as the private sector, both in the form of small business and large business.

I do express appreciation for this opportunity to address the issue of Sunday shopping. Our organization supports Sunday shopping and looks to as broad a definition of tourism criteria as possible for purposes of the act.

The two relevant elements of the corporation's mission statement are stimulating economic growth and creating and maintaining jobs, and encouraging proactive thinking and planning.

Tourism has been an important economic engine for our tri-municipal area since the first tourist of 1883. In spite of global predictions that tourism will be the largest single industry by the year 2000, we find the industry one of the least understood. Because of the importance of the industry to local community development and this lack of understanding, our corporation began undertaking relevant data collection in 1988.

The research was undertaken by the Economic Planning Group of Canada, a consulting firm specializing in the tourism industry. One of the financial modelling tools used was the FAIM program. FAIM is the acronym for tourism financial assessment and economic impact model, jointly developed for the Canadian-Ontario tourism development

agreement by the Economic Planning Group and Econometric Research Ltd.

Due to the high number of approximately 1,500 surveys of tourists together with appropriate survey timing, the Economic Planning Group regards its data with a relatively high level of confidence. Their estimate of total visitation to the tri-municipal area in 1989 is 958,000. This number should be related to a base population figure of approximately 15,500. This visitation resulted in total visitor spending of \$233.4 million.

In order to calculate economic impacts, this spending was discounted to an effective revenue of \$185 million. Discounting was essentially in the areas of service station sales and business expenditures which do not generate economic benefits to the local economy. However, much of this difference would accrue to the benefit of the province as a whole.

Direct impacts of this revenue are \$87 million in value added income, \$75.6 million in wages and salaries, and 3,245 person-years of employment.

Without the contribution of tourism revenues to municipal taxes, each tri-municipal household would have to pay an additional \$2,513 in property taxes to maintain the same level of services if the commercial-industrial sector did not assume this additional cost. Without Sunday shopping the commercial sector's ability to pay additional taxes would be eroded, leaving the burden for one remaining single industry, the local paper mill.

Recent developments in the retail industry such as the West Edmonton Mall demonstrate that shopping in itself has become a major tourism attraction. The Eaton Centre in Toronto is reported to attract more visitors than Disneyland.

Specific to the issue, 42.2% of all tri-municipal visitors include shopping as an activity. In fact, shopping ranks third in visitors' key activities. For almost one third of our visitors, 67% of their activity was shopping. In total, tourism rang up \$130.6 million on our retail registers. Consequently, tourism represents over 51% of local retail sales.

Quoting from Whyte, Reynolds and Associates, who undertook the retail portion of the corporation's market analysis and research study, "...a minimum of 41 'other retail and specialty stores' accounting for approximately 40% of the total retail base interviewed reflects the importance of tourism and summer resident activity."

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This study further cites business' opinion that 16% to 30% of its source of customers is visitors, the percentage depending upon the nature of the business. Additionally, it was found that in excess of 700 individuals are directly employed by the retail sector, or 8.7% of our workforce. On average, two and a half times as many square feet of selling space are devoted to groceries and convenience goods in our tri-municipalities than the Ontario and Manitoba averages, again indicating the significance of tourism.

Many businesses will declare that summer tourism, in effect, represents their profit, justifying the very act of being in business.

A recent threat to our local economy is the new Trans-Canada Highway bypass of the communities which opened to traffic in November 1990. The tourism surveys

found that 42% of summer pass-throughs would leave the bypass and enter the tri-municipal area to shop, buy groceries and eat. To be closed on Sundays is to lose 14% of potential pass-through purchasing.

From a provincial perspective, the theory that pass-through traffic would be captured the following day elsewhere in the province is not valid. Our highways lead east, west and south. In two of these three directions, a traveller will have left the province in half an hour to two and a half hours.

Third only to traffic conditions and public inebriation, early closing and unavailability of stores and restaurants were most frequently cited by tourists as a main dislike of our communities. This is not inconsistent with the results of the consumer survey of the market analysis and research study which found that only 52% of respondents were fully satisfied by hours of operation.

In short, Sunday shopping provides the potential of increasing annual tourism expenditures from \$5.75 million if shopping were the only activity engaged to \$41.5 million if that activity induced a day's stay. Roughly speaking, these additional expenditures would result in 31 to 227 new tri-municipal jobs, \$723,000 to \$25.3 million in wages and salaries, and at least \$360,000 or \$65 per household in municipal taxes. It should also be noted that in the parochial terms of a community's economic wellbeing, these are all export dollars, not import or recirculation moneys.

For our purposes, we have adopted the widely held definition of tourism, that is, anyone visiting the community from a distance of approximately 25 kilometres or more. In defining tourism for purposes of administering the act, we recommend that it too follow commonly accepted practice.

The experience of communities committed to religious participation indicates that Sunday shopping does not adversely affect church attendance. Sunday afternoon shopping is frequently found to be a family activity, and in fact is generally regarded as contributing to the overall quality of life.

Carefully weighing all factors in balance, the corporation's board of directors at its regular meeting of May 21, 1990 carried the following resolution:

"Be it resolved that the corporation does hereby support the concept of Sunday shopping as a mechanism to increase visitor and tourism expenditures and enhance job creation in the tri-municipal area."

The Acting Chair: That allows six minutes for each caucus.

Mr Daigeler: Is this the first time you or your organization are making a presentation on this question, or were you involved in the previous discussions on the Sunday shopping issue as well?

Mr Treusch: You heard our colleagues from the same community make reference to last summer's addressing of this whole issue, and we at that time gave a similar presentation.

Mr Daigeler: What about the previous provincial round? Were you involved in that at all?

Mr Treusch: I personally was not involved at that time, so I have no knowledge.

Mr Daigeler: I am asking this question because it seems to me that there has been quite a significant shift in public opinion. I represent the Liberal Party, and there was a fair amount of criticism of it and the government at the time. That is why it was an issue during the election, that a fair number of people seemed to think the proposal that the Liberals put forward was not the right thing, but this time around it sounds as if almost everyone has finally seen the wisdom of the Liberal legislation.

Where is that change coming from? Is it something you have seen through your experience, and you have now agreed that was the right thing to do?

Mr Treusch: I can only speculate. I think it is an emotional issue, and emotion always gives rise to strong positions, often extreme positions. I mentioned that tourism is not a well-understood industry. It is one of the reasons we have collected data. In terms of our own community, being aware of the true nature of that industry, the impact being open or not being open on Sunday might have on the community, being given the facts perhaps took it somewhat out of the emotional area and brought it more into where there could be some real deliberation and some thoughtful discussion.

Mr Daigeler: The earlier presenter said Sunday shopping is now available in the United States. Is that relatively recent in the border states, or has that always been the case?

Mr Treusch: Before my current position in Kenora, I spent five years in Minneapolis-St Paul, and in all the time I was there, there was Sunday shopping.

Mr Daigeler: So it is not a recent phenomenon?

Mr Treusch: Not to my knowledge. I am not sure of North Dakota.

Mr Sorbara: I think this was a very good presentation. You make the case that tourism is a crucial industry in Ontario, a crucial industry in your area, and the freedom for storekeepers to open when the tourist market is there is crucial to the success of tourism in your area. Is it your view that those stores which do not have a tourist market, or those communities which are not a tourist destination, ought to be forced to remain closed on Sunday?

Mr Treusch: They should have the option to do what they think is best. Speaking as an economic development officer, I would like to be equipped with all the tools or all the resources I could muster. I think any community should have the option of whether it be a tourist community or not.

Mr Sorbara: In your own community, as an economic development officer familiar with the labour market and the social and cultural and economic issues in your community, since Kenora and the area determined to allow people to make their own choices with respect to Sunday shopping, have you noticed any negative impact on family life, on the quality of the working environment, on the satisfaction of workers in tourism or in retail or anywhere,

or any other negative impact on the community that would help this committee muster some support for this bill?

Mr Treusch: None has come to my attention. We still do receive some complaints that even on the current basis some things are still too restricted.

Mr Sorbara: In other words, they want more freedom?

Mr Treusch: More extended hours or more stores open.

Mr Sorbara: What about from the ministerial community, from the pastors of local churches, the rabbis of the local synagogue, those people who are charged with the spiritual care of the community? Have they objected? Have they been to see you or the mayor, or have they written letters to the newspaper? Are they unhappy about what is going on in Kenora?

Mr Treusch: I am not aware of any. It does not mean there was not any, but none has been brought to my attention. We certainly try to keep our ear to the ground on the issue. You will notice from our statement that we are also concerned with the quality of life. If we do not maintain the quality of life of our community, it is very difficult to perform our type of function.

Mr Sorbara: What about within the trade unions in the area, or the district labour council? Are they protesting vigorously this new openness in the community?

Mr Treusch: I have not seen any rallies or marches or placards or letters to the editor.

Mr Carr: Thank you for a good presentation. I must say that organizations like yours are very successful, because I think there probably would not have been even the tourism criteria there are had there not been a lot of pressure from groups in communities like yours, so I thank you for taking the time, because they do serve a purpose in getting the message out.

One of the questions relates to economic activity; on page 4 and 5 you put together a lot of statistics. The government seems to be saying that as a result of Sunday shopping there is no increase in economic activity. In fact, as was mentioned earlier, there are some who say it is going to be an added drain on communities because of bus services and so on.

It would seem to me from all the statistics on pages 4 and 5 that that is not the case, that there is more economic activity, that you are actually helping some municipalities with the increased taxes—you put some of those in there. Is that the case? Maybe we could just sum it up as what you would say to a government that believes there is not any extra economic activity as a result of being open on Sunday in your community.

1440

Mr Treusch: In our particular case, and I have asked a couple of the operators to try and be certain, they declare that the increased business they do as a result of Sunday openings is new business; it is not just reshuffling the deck from midweek or Saturdays through to Sunday. For our community, then, that is increasing the total business within the community, and it would benefit the community. It would net out in job creation; the business would be

able to expand. I would hate to think a successful business would be penalized because it expanded and then could no longer open on Sundays. Of course it would then be paying more municipal taxes, so it is a win-win type of situation.

Mr Carr: As you know, the legislation was put in with the number one criterion of protecting workers who do not want to work on Sunday, although, as has been mentioned, there are many workers who do and the retail workers would be the only ones who would have protection. What has been your experience of the actual workers? Have you had people complaining to you that they have had to work on Sunday? Does that seem to be a big problem in the community, that a company has opened a business saying, "We have to be open, so you're going to work"? Has that been expressed to you at all?

Mr Treusch: No, it has not. I have found, particularly in the case of the smaller owner-proprietor type of business, that because of personal reasons, that owner elects not to open on Sundays, and he does not. With the Kenora experience, they are not obliged to open, so that is their free choice. That is the closest I have come to hearing any dissenting voice to being required to work on Sunday.

Mr Carr: Sometimes, when we look at our circumstances, it is refreshing to come out into communities and see organizations like yours that are working to make this a better province, and for that I want to commend you. Mr Fletcher is laughing at it, but I sincerely believe there are people who are trying their very best, sometimes in spite of what we in government do.

Interjection.

Mr Carr: He laughed. I assume that is what he was laughing about. He looked at me and laughed.

When we come out and get a chance to hear communities like yours and what you are trying to do to make your community viable, as a legislator it makes me feel a lot better, because there are some tremendous people out there who are working to improve the community, so I commend you.

Mr Treusch: We appreciate the support we get from provincial government as well.

Mr Fletcher: I support what Mr Carr was saying, even if I do chuckle.

I am going to follow what Mr Carr was saying earlier in the day about statistics. On page 5, it says for 42.2% of all visitors, shopping was an activity. What was number one and two on the list, do you know?

Mr Treusch: In our area, it would have been outdoor recreation and pleasure, that type of thing, and visiting friends and relatives.

Mr Fletcher: Then it says: "Shopping ranks third in visitor's key activities. For almost one third of our visitors"—which cuts it down a little more—"67% of their activity was shopping." Statistics are statistics and I really do not want to get into—

Mr Treusch: It is slightly different ways of stating the same thing.

Mr Fletcher: Anyway, I have listened to a lot of presentations today from the Kenora and District Chamber of

Commerce, the town of Kenora, Lake of the Woods—that is Kenora—and Lake of the Woods Economic Development Corp, which is part of Kenora. I still have a bit of a problem with why you are here, because you probably meet the tourism criteria more than anyone else in the province almost. From what I can read and from everything I have heard today, you would have Sunday opening. That is where I am getting a bit of a problem. If it is just that you want the absolute right to choose between wide-open Sunday shopping or partial Sunday shopping, I can understand that. But the way Bill 115 is with the tourism criteria, you meet the criteria, from everything I have heard in every presentation today. Going through it, you meet the criteria. You would have wide-open Sunday shopping. I am trying to get a grasp on exactly why you are here saying that the bill is no good.

Mr Treusch: I think with distance and time, we were made aware that the issue of Sunday shopping was coming up—this proposed legislation. What the final form will be, we are uncertain. The government has been kind enough to take the issue out and hear representations like this. We thought it was worth while to let it be known what our experience has been and that we value it and that it be maintained.

We and I do not yet know, unfortunately, what the criteria are, and I was not able to be specific on the issue. The material I was issued talked about tourism criteria, but I do not know what those criteria are.

Mr Fletcher: Okay. I am going to make sure you get a copy of that.

Mr Treusch: Hopefully, it will be broad and not restrictive.

Mr Fletcher: Right. I know the town of Elora, which is close to my jurisdiction, loves this law. They think it was written just for them, and the town of Elora is strictly tourist.

Mr Treusch: I guess part of the problem, though, is—and maybe next week I get transferred to another community—maybe they do not even know how to spell the word tourism. But as we looked it over and began to analyse it, maybe tourism is an industry that can be developed there. Can we start Sunday shopping the day after? I do not know, and that is why to me non-restrictive legislation is so much easier to work with than something that is very narrow and confining.

Mr Fletcher: Yes. I know there is a problem with the municipal option, though. Municipalities were saying, "We don't want the burden."

Mr Treusch: Well, some municipalities may not,

Mr Fletcher: Now with the tourism criteria that are outlined by the Ontario government, with the government to be the overseer of it, I think it will work out well. I think this area is going to like the criteria. Thank you for your presentation. It was a very good presentation.

The Acting Chair: Mr Mills, you have about two minutes.

Mr Mills: I have listened to your brief with very open ears and I would like to comment to you that we talk about

the economic engine being tourism, and I think our government recognizes that tourism is very important to this province. These regulations, which are draft regulations, are a process where we can hopefully refine or massage the criteria so they encourage tourism perhaps to an even greater degree than you perceive now.

Having said that, we talk about Sunday shopping. In British Columbia they have had wide-open Sunday shopping for the last four years and the statistical information is that during that four-year period—and I go back to your resolution that you support “Sunday shopping as a mechanism to increase visitor and tourism expenditure”—the experience in British Columbia over the last four years is that Sunday shopping has produced a growth of 1%. I just wonder if you would like to comment on what the 1% means when you have got the overheads, the costs. I do not see that being a very good argument for wide-open Sunday shopping and I would just like you to comment on that 1%. I am sure you would not be satisfied with that here.

Mr Treusch: It would be interesting. Again, you are summarizing; you throw out percentage rates of data, and so what does it really mean? You have to look behind it. I would suspect that probably the geography would have a lot to do with that. Here in Ontario, particularly where we are located, tourists are coming at us from three directions, and in a sense British Columbia is almost like an isolated cul-de-sac. If it is Canadian traffic, you are crossing the Rockies; other than that it is the one-way channels to south of the border. If you are going to try to take on the Americans strictly in the retail game, it is a pretty uphill battle. I would not expect the Ontario experience to be the same as British Columbia's.

Mr Mills: So you think the BC experience is unique to that province and not to be applied as a criterion for a similar experience here in Ontario?

Mr Treusch: That would be my initial reaction without seeing anything else.

1450

Mr Sorbara: If we are finished questioning the presenter, I wonder if I might get a clarification from the parliamentary assistant to the Solicitor General. My problem arises because of some of the submissions that we have heard earlier today. The bill we are considering—if I understand it correctly, I say to the parliamentary assistant—provides in effect that all stores have to be closed on Sunday except—now I am quoting from section 4—“for the maintenance or development of tourism.” Is the government making an absolute distinction as between what is a tourist and what is not a tourist?

I will put this example before the parliamentary assistant. If I am a resident of Thunder Bay and on Sunday I am interested in buying some garden hose and perhaps a lawnmower and, I do not know, some plants, am I a tourist if I travel to Kenora to buy that whereas if I stay in Thunder Bay and look for a place to buy the same items in Thunder Bay I am not a tourist? How are we trying to distinguish between which shoppers in Ontario should have the right to shop on Sunday? What are the distinc-

tions we are making as between my rights as a citizen and a resident of Ontario to shop in my local community or to shop in a community that is, say, I do not know, 100 or 200 kilometres away?

Mr Mills: I guess the definition of a tourist has been arrived at over broad consultation with the tourist industry and Tourism Ontario Inc. It is my understanding that the technical definition of a tourist is one who leaves his home and travels at least 40 kilometres to somewhere else and then he is a tourist.

Mr Sorbara: Is the object of the legislation then to encourage people to travel long distances to make their purchases? Is the object of the legislation to support businesses that can attract from a catchment area that is 40 kilometres or more away? If that is the case, why are we discriminating against the shopper who does not have the means to travel 40 kilometres or more to do his or her shopping? Why does that consumer not have the right to buy the very same products closer to home?

It seems to me that the government is not trying to encourage efficiency and discourage a lot of road travel and use of pollutants like gasoline. What is the basis upon which we are going to distinguish between whether or not I should have the right to buy things locally in my own community and perhaps travel to Kenora and buy the very same products? Why are we making that distinction?

Mr Mills: I suppose that in developing the tourism criteria, the ultimate part of those criteria must be who is a tourist. I think the strategy that was employed through consultation and getting it from Ontario tourism was that a tourist technically is one who travels 40 kilometres to another place to visit. Notwithstanding that, I do not see that if you live in Kenora you have to go somewhere else to shop if this is designated a tourist area. It might be very difficult to give an example of any particular area that will not have a particular tourism attraction. I do not think the intention is to make people travel but rather to uphold the criteria that are established here.

Mr Sorbara: Does the government take the position that if I am a resident of Thunder Bay, I am a tourist on Sunday if I drive to Duluth in order to do my grocery shopping?

Mr Mills: My interpretation of a tourist, and I will say it again, is one who travels at least 40 kilometres from where he lives. That for the purposes of the tourist criteria is a tourist.

The Acting Chair: Thank you very much. This is turning into a bit of a debate and I think this will be handled during clause-by-clause. Mr Treusch, on behalf of the committee, I would like to thank you for taking time out this afternoon and coming and giving your presentation.

FORT FRANCES CHAMBER OF COMMERCE

The Acting Chair: Our next presenter is from the Fort Frances Chamber of Commerce. Good afternoon. You will be allowed half an hour for your presentation. You can either take the full half-hour for your presentation or you can make it shorter and allow time for questions and comments

from each of the caucuses. Please identify yourself for the record and then proceed.

Mr Zarembo: My name is Paul Zarembo and I live in Fort Frances. I am a chamber member of the Fort Frances Chamber of Commerce and I am here on behalf of most of our chamber members, so I am not speaking for myself. I am going to try to speak for them.

We did a little survey before I came and we talked with them about Sunday shopping: "It is important to me because—" What I am going to do is present some statements that I hope act as icons in your mind to give you an idea of the thoughts going through our business community. These are their statements, not necessarily mine. I am just going to go through it as per your directions in the summary sheet.

Heavy industry is not affected by the Sunday work rule. They have the freedom to plan and schedule work any day of the week.

The two most important industries, both in revenue and as major employers in Fort Frances, are Boise Cascade, which is the paper industry, and tourism.

Another statement is: Sunday shopping is one way for us to become more competitive. It is our right to choose when we will open our businesses. This is an antiquated law. It must be reviewed and updated.

We are amidst transition into free trade. When will the government stop tying our hands?

Fort Frances Canada Customs reports Fort Frances traffic is up 75% to 100%, while tourism and non-resident traffic is down or on the decline. Canada is becoming a bedroom/suburb community of the United States cities within 300 miles south of our border. Sunday shopping is a matter of business survival. Our competitors across the border are open on Sundays; Canadian businesses need every opportunity they can get;

In today's busy society, Sunday is the only day open for individuals and/or families to do relaxed shopping. Shopping is now a form of family entertainment.

Having stores open on Sunday is crucial to the tourism industry.

To declare Sunday a holy day—the derivative, holiday—is not separating religion from government. It also discriminates against people of other faiths. Churches offer many different options in regard to services and scheduling. They have gotten with the times, why do we not?

There are many people with alternative lifestyles who would like and/or need to work on Sunday. This is also their right.

Hopefully I presented some of the bullet points in the speech to reflect the feeling and the opinions and the frustrations of some of our business people, because we are having a tough time in Fort Frances.

During this meeting I would like to present a few reasons why Fort Frances business owners need to have the opportunity to open their business establishments on Sunday. Let me begin.

Fort Frances business owners strongly believe it is their right to choose to be open or closed on Sunday. It is our right to be open. We have the right to be taxed seven days of the week, we have the right to pay rent for seven

days of the week, we have the right to be responsible for our business loans and mortgages seven days of the week, and we have the right to be responsible for making the payroll seven days of the week. Why do we not have the right to choose when and where we will conduct business?

1500

Not having the right to choose to be open on Sunday is one more example of government interference and over-regulation of business. Upon the free trade agreement becoming fully operational, in approximately 1995-96, Fort Frances and all Canadian businesses will be thrust into an extremely competitive and new free market trading environment, an environment which has never been seen in Canada before—simply put, a market which we really are not prepared for.

As I speak, we are already five to six years behind the times in implementing change and making the transition into the free trade agreement. When is government going to stop tying our hands and let us become more competitive and be the very best we can? When will government begin to assist business, halting the overregulation of business?

Allowing Sunday shopping is one of many such measures or tools we can use to level our playing field and make our businesses more competitive. As a tool, Sunday shopping will assist the business community to become more competitive and to make quick and necessary adjustments in the marketplace.

If we do not plan for change, the US vendors will change it for us, on their time frame and on their schedule. We will end up becoming bedroom communities or suburbs of all major US cities within 300 miles south of our border. Basically we will have some convenience stores and just a few stores to tide us over until we can make that big trip.

Do not think this is not happening, because it is. See for yourselves. By contacting any Canada Customs office, it only takes a matter of 10 minutes to see the trend. This is a large grass-roots movement and people are voting with their feet. Here is an example. After discussions with Fort Frances Canada Customs personnel, during all of fiscal year 1990-91 there was a total of 50,000 people who transacted business with Canada Customs in one way or another. They basically came in the door and paid a fee, a duty, a tariff or some sort of tax; 50,000 transactions happened in the last fiscal year.

Presently, Fort Frances Canada Customs has just entered into its second quarter of this fiscal year. Upon entering into this second quarter of fiscal year 1991-92, Canada Customs reported 28,000 people have already transacted business through its system, better than 100% already. Based upon a rough, conservative estimate, we have determined that by the end of fiscal year 1991-92 a minimum of 80,000 people, perhaps 100,000 people, will have transacted business with Fort Frances Canada Customs. Please note that while return resident traffic into Canada is increasing, we are experiencing a decline in tourism and/or non-resident traffic through Fort Frances Canada Customs.

In short, per-person business transactions at Fort Frances Canada Customs are up 75% to 100% over last year. This estimate reflects an increase in border traffic into

Canada while experiencing a reduction in non-resident tourism traffic at Fort Frances Canada Customs. When Fort Frances Canada Customs personnel were queried, they indicated that Fort Frances border activity has increased significantly and noticeably. When queried regarding Sunday shopping or Sunday activity at the Fort Frances Canada Customs, it was mentioned that Sunday used to be a slack or slow day. Sunday is now just as busy as any other day of the week, and sometimes busier.

Our destination is 1995-96 and full implementation of the free trade agreement between Canada and the United States. We will need lead time to get ready for this. We have already gone five to six years and we are not on the ball. We need time. We need lead time for business planning, staff scheduling, identifying new target markets, financing, pricing, business cycles, and again, implementation time.

This last bullet point is extremely important. We need implementation and lead time to introduce Sunday shopping to our marketplace. It takes time to implement these things. Of course, if you have such economic imbalances in the United States and you are buying, you can get things that much cheaper. Well, they are going to vote a lot faster and you are going to change your market quickly. We do not have that, so we have to maintain a higher price level. But we need every day we can get, and Sunday is one of them. The six-month trial of the Sunday shopping, or the eight months or whatever it was, is no measure of whether this pilot was successful or not. It takes years to change buyer habits.

Ladies and gentlemen, these are the 1990s. We must become more progressive. We must take off our blinders. We cannot isolate ourselves and live in ignorance. All the while we are surrounded by change and growing regional, national and international markets.

The two largest revenue- and employment-generating industries in Fort Frances are (1) paper and (2) tourism. They are both revenue- and employment-generating, and it is in that order—heavy industry and then tourism is second. We know the paper industry is on a decline. Everybody is taking a beating in the paper market, especially in Canada. I have a pretty good idea of that. I have been involved in the lumber industry and the forest industry myself in the past. Presently I am not, but I see some things that are going on there.

With tourism being such an important industry to Fort Frances, it stands to reason that we have an abundance, which is in decline, of incoming and outgoing non-residents on Sunday who are looking to—okay, they are coming in on Sunday. They are coming in the rest of the week too, and they are doing these things. But here they are. They are coming in on Sunday and they cannot do these things, such as stock up on supplies for their vacation in the area or restock supplies for the next leg of their trip to the Arctic or to wherever, find a place to stay or purchase the last memento reminding them of their Canadian experience before they leave Canada. I think we are sending them home with the wrong mementoes. Also, people on vacation enjoy relaxing, be it Monday, Saturday or Sun-

day. They are here to relax and enjoy themselves, as we all do when we travel.

Fort Frances is a border town. Its economy is directly linked to whether we are open on Sunday or not. This is a plain and well-known fact. If our businesses are not open on Sunday, we have effectively handed the Canadian consumer and non-resident tourist destined for Canada over to US merchants without competition from us, the Canadian merchants.

Ladies and gentlemen, thank you for your time. At this time, I will answer any questions.

Mr Sorbara: Mr Zarembo, that was a pretty powerful presentation. Do you believe, as Mr Mills believes, that the only businesses that should be allowed to be opened in Fort Frances are those that cater to customers who come from 40 kilometres or more away from Fort Frances?

Mr Zarembo: No, I believe all businesses should have the right to choose to be open on Sunday. That is what I believe.

Mr Mills: On a point of order, Mr Chair: I gave you the definition of a tourist arrived at by consultation with the tourist industry to say who is a tourist. In no way did I say, or did I want to be misinterpreted to say, that it bears some restriction on who should shop in Fort Frances. I just want to make that very clear.

Mr Sorbara: I appreciate that clarification. The point I am trying to make is that Mr Mills and the government have a definition of a tourist and the bill we are looking at says the only businesses that should be open on Sunday are the ones that maintain or promote tourism. I am just going from what the bill says to what Mr Mills and the government say are tourists, and the logical conclusion is inevitable; that is, the only stores that should be open in Fort Frances are the ones that cater to a market of customers who come from 40 kilometres or more.

Now, sir, about the only people who have come before this committee to support the government's position are district labour councils and the United Food and Commercial Workers. I take it that Boise Cascade in Fort Frances operates on Sunday?

Mr Zarembo: They operate any time they want, but they have to pay for it.

Mr Sorbara: I take it that the trade union movement in Fort Frances and the local union there are not lobbying to close down Boise Cascade on Sunday?

Mr Zarembo: No, I have never heard anything like that.

Mr Morrow: On a point of order, Mr Chair: I would like to clear something up with Mr Sorbara. I do believe those are trade unionists and they do have a negotiated contract.

The Acting Chair: Thank you for that piece of information. Please proceed.

1510

Mr Sorbara: I agree with my friend Mr Morrow that they do have negotiated contracts and they are able to work out with their employers, through negotiations, whether or not they are going to work on Sunday. I would

love to see commercial workers and retail workers have those same rights, and we are giving them to them in this bill in a pretty forceful way.

Would you say, sir, it is rather an artificial distinction to identify and allow only stores that cater to or serve tourists to stay open in today's market?

Mr Zaremba: In today's market you need all the opportunity you can get to make your money. You have to. You are generating. You are responsible. I do not think it should be just segregated. I think anybody who is in business, who can find a target market, who is going to participate in generating revenue in his establishment should have the opportunity to be open. Granted that there are certain things set up so that there is a certain amount of protection for the employee.

Mr Sorbara: Would you be surprised if I told you these inconsistencies go back almost 100 years in Ontario history? If you go back to 1906, the law prohibited the sale of foreign newspapers. If you go back to 1938, Sunday movies were prohibited, except for armed service personnel. If you go back to 1943, we were prosecuting people for selling things at souvenir stands, at hot dog stands, and the rental of boats. Would that be tourism? Would you be surprised?

Mr Zaremba: It all depends on what they are hawking, sir.

Mr Jackson: Mr Sorbara is hawking right now.

Mr Sorbara: I have got a lot of things to hawk.

I just want to let you know that in 1945 we then prohibited armed service personnel from going to movies on Sunday and we thought we were being progressive. What are your predictions in Ontario? What do you think the law should be when this whole thing settles down?

Mr Zaremba: I think business should have the opportunity to be open, with provisos for the protection of the employees, to a certain extent. I myself used to work on Sunday. I am originally from the Chicago area. I grew up with Sundays. I shop on Sundays. I have worked on Sundays. There are a lot of people who might have somebody—there might be parents around. They, either male or female, might want to work Sunday. That is their right. If you want to go to church, there are a number of different service options. If you are Catholic, you can go on Wednesdays or Saturday nights or Sundays. A number of other denominations serve their target market the same way. When it all finishes up, I would like to see businesses have the opportunity to be open on Sunday, because they are going to be facing the US in the free trade coming up in 1995-96.

Mr Sorbara: The Chairman says I have only one more question. I had a long series of questions on the role and responsibility of the chambers of commerce as identified in the draft regulations. The draft regulations say any store over 7,500 square feet that wishes to open on Sunday must in its application submit a letter from the local chamber of commerce saying the local chamber of commerce approves that applicant opening on Sunday. What is this going to do to a local chamber of commerce when it has to

make choices between applicants who apply to open on Sunday and have to go through the local chamber?

Mr Zaremba: I do not know. I am not very familiar with that part of the chamber. All chambers are separate entities. The local chamber, the provincial chamber and the national chamber are set up very differently from the way they are set up around the world and in the United States. These might just be some bylaws they have created locally, and maybe the bylaws in another chamber are a little bit different.

Mr Sorbara: If you were the president of the chamber and had to make the decision, and in your wisdom decided that the local—

Mr Zaremba: I do not feel there should be any distinction. It is a business-civic organization. It is there to bring business together. There should not be any discrimination.

Mr Carr: Even the labour unions that have come before this committee are not happy with the legislation, for different reasons. They say it does not go far enough and protect the workers. But just to clear the record, nobody who has appeared before this committee is happy. They are saying there should be amendments, and even the labour unions are saying that.

I can understand where you are confused with this government attempting to help you. This new government says it is trying to help business, and yet, as I mentioned earlier, it adds taxes on gasoline—and the vast majority of the price of gasoline is taxes—on cigarettes and on liquor, the very products people are going across the border for. In the last budget they increased it and in fact heightened the problem.

What would you say to a government that says it understands more about the economic activity in Fort Frances and what needs to be done than your chamber and your members? What would you like to say to a Premier, who I understand is in the city, who says, "We will decide what is going to happen in Fort Frances and what we believe is best"? What would you say to a Premier who says he knows better?

Mr Zaremba: We would say: "Just get out of the way of business. Just get out of the way and let us do our thing. You do your government's thing and we'll do our other things. We'll generate the money and we'll live within certain guidelines, but just stay out of our way. Let us be the best we can be."

Let's stop being looked down on as second-rate business people compared to the United States. It is not true. If you can do business in Canada, it is easy to do business in the US because of all of the regulations; you have a line of inspectors of this ministry and that ministry by the time you even get your doors open. I would just like for government to stay out of business. It should let us do what we do best, and we are going to let it do what it does best. It is a thrust and parry of laws and regulations and protections. We can live with that, but you have to give us some room to move. Sunday is just one small part of the whole program.

Mr Carr: As you know, one of the reasons they have brought in legislation is that as a socialist party their concern is for the workers. What has been your feeling with

regard to the chamber and its relationship with workers? If Sunday were to be a day of working, do you see that there would be problems in terms of worker-management relations, whether the owners are small, midsize or large? How do you think that relationship will work and do you in fact see the government being able to protect the workers? How would you see it operating?

Mr Zaremba: You have the Ministry of Labour. When I was an employer, a gentleman by the name of Marcel Castonguay was the first guy to call you and he would tell you what the facts of life were. If you have something available that people can go to that is going to cut through the red tape and really sort things out between the employer and the employee, that should be good enough, just a good representative in government.

Other than that, you can have your basic legislation that works through some of these, like the Ministry of Labour, and the employees and the employers can figure it out themselves. They can figure out their schedules and how they are going to do things. I really do not have a concrete answer on that, but I see it as the employer and the employee working together. I do not think it is really going to affect a lot of employees. Of course you are going to have employers who are going to abuse the system, but you are also going to have employers who are going to work with their staff.

The other thing you get going too is that a lot of businesses are not going to open on Sunday. They are not going to force opening because they do not want to work. They do not want to see their employees work, so they are not going to be open. But that does not mean they should not have the right to be open if the market changes in the area and they have the flexibility to start changing and testing. Maybe they will find that employee who wants to work on Sunday and the owner, a woman or man, will say: "If you'd like to try working that day and you think there's a market, if you think we'll have enough people coming in, yes, we'll open up. We'll give it a try." They should have that opportunity without going through a lot of paperwork and checking with different agencies. So yes, I think there are abuses. There are abuses for the employee too. Employees can call in and harass the employer if they want. But that goes with anything. I think they will work it out.

1520

Mr Morrow: Thank you for that very interesting presentation. Just a couple of really quick questions, if you do not mind. Neither the Retail Council of Canada nor any other organization has undertaken any study to permit it to come to a conclusion about the financial effects of Sunday shopping on retailers. Do you have any substantial surveys or studies in Fort Frances to give us any indication on that at all?

Mr Zaremba: No, I do not.

Mr Morrow: You talked a bit about the problems of a recession and Sunday shopping. We basically just went through the worst recession in Ontario since the Depression, and we had wide-open Sunday shopping. Can you

please tell me, with my just giving you that information, how Sunday shopping would now help Fort Frances?

Mr Zaremba: First off, it is a right. I think they should have the right to be open. It is going to take time to change attitudes to get people used to shopping locally, and they should have the right to try it if they want. Right now a lot of people do not open on Sunday, and they did not open when Sunday shopping was legal anyway. So what is it really harming?

Mr Morrow: Should a worker have an absolute right to refuse working on Sunday in the retail sector?

Mr Zaremba: I think that should be worked out between the employer and the employee. I do not think somebody should be able to totally refuse. I think it has to be worked out between the two.

Mr Morrow: Now that you have raised that, do you agree with any form of a common pause day?

Mr Zaremba: "Pause day." I do not know what that means.

Mr Morrow: Thank you.

Mr Zaremba: Oh, common pause day. I have never heard of that. I do not know the terminology. Excuse me for my ignorance. I think you should be able to choose your pause days. I think you should be able to choose when you want your time off, whether it be consecutive—if you have to have 36 consecutive hours, then work it out. You might be Seventh Day Adventists and you might want to have your time off during the week.

Mr Fletcher: As far as the cross-border shopping, price is the motivating factor for people crossing the border.

Mr Zaremba: I think so.

Mr Fletcher: Right, okay, so even if you are open Sunday, they are still going across the border because of the price.

Mr Zaremba: Maybe not; not necessarily; sometimes, yes.

Mr Fletcher: I have to take exception to what you said about government getting out of business. For far too long I have stood by and watched when other governments have allowed business to do what it wants to do, and I have seen a lot of employees who have come out with maimed limbs. The environment has been harmed over the years.

As far as I am concerned, the government does have a role to play in protecting certain things, especially when it comes to protecting the rights of employees to safety. When it comes to protecting the environment, governments do have to be involved with business and they have to be a partnership. I agree with that. But let's not say, "Let's get out of the way."

Obviously, the free trade agreement was a government action that tried to help business, and look at what has happened. In fact, as far as free trade is concerned, if you look at what has happened in the paper industry, MacMillan Bathurst, Domtar, Abitibi-Price now are buying all their inks in a converting part of the industry from the United States. They are not buying from the Canadian producers any more. The Canadian producers are out of work;

they have closed down. If you look at the starches they use in the paper industry, they are coming from the United States also. If you look where the converting industry is buying its paper, it is from the southern states also. So you can see why the industry and the other industries connected with it are going down the tubes, because they are going across to the US.

If Canadian industry and business are that concerned about keeping business and money in Canada, why are we not buying Canadian-made products, and especially in Ontario, especially in the industry? How many stores in Kenora are owned by American subsidiaries?

Mr Zarembo: There is not that much Canadian product out there, nor is there US product; \$80 billion of trade comes from Japan and is imported into California every year.

Mr Fletcher: And then it is coming into Canada.

Mr Zarembo: Canada could be buying it too; I do not know.

Mr Fletcher: Perhaps Canada should be buying its own products. If it is going to go through the whole system and you want your own people to stay at home and shop, then maybe it should be business that stays at home and shops also. That way we help each other out, and that way there probably would be a lot more money to go around to help businesses.

Mr Zarembo: That is a protectionist attitude and I do not agree with that, but we live in a free country, so you are entitled to your opinion on that. I believe business should be able to access the markets so that their dollar can buy the product. I think there should be protection—

Mr Fletcher: It is okay for business, as consumers, to go outside the country and spend its dollars and not spend them in Canada, but when it comes to the people, the consumers who have to buy the products in Canada, it is not okay for them to go outside.

Mr Zarembo: I am not debating that. I came here to talk on Sunday shopping.

Mr Fletcher: You talked a heck of a lot about cross-border shopping too.

Mr Zarembo: Well, we see it. We are in Fort Frances.

The Acting Chair: Mr Zarembo, thank you for having taken time out this afternoon to come and give your presentation.

KENORA-KEEWATIN AND DISTRICT LABOUR COUNCIL

The Acting Chair: Our next presenters have cancelled, so we will be moving up to the Kenora-Keewatin and District Labour Council. Gentlemen, welcome this afternoon. You will be given a half-hour to give your presentation. You can give either a half-hour presentation or else give a shorter submission and allow time for questions and comments from each of the caucuses. Please identify yourself for the record and then proceed.

Mr Canfield: Thank you very much. I am Dave Canfield from the Kenora-Keewatin and District Labour

Council. I do believe that briefs should be brief, so I will be brief.

I have been president of the district labour council for approximately three years now. We represent approximately 3,000 unionized workers in Kenora, and with all the phone calls I get coming to my place from non-unionized workers, I have taken it upon myself to represent anybody who needs my help. We represent approximately 800 employees who are with the United Food and Commercial Workers in Kenora, not all in the retail industry; some are in the essential service industry and probably about 300 in the retail industry.

The Sunday shopping issue is not new for the Kenora labour council, and I do not imagine for a lot of other labour councils; it has been brought up before across the country. Our council has been making presentations back as far as the 1960s, the 1970s, into the 1980s and now the 1990s, the difference being that democracy prevailed for three decades and disappeared last spring in Kenora. As the greed of the 1980s and the power of the corporate agenda have taken over today's society, we find ourselves fighting a brick wall, time and time again. Last spring we ran into that wall in Kenora.

The issue of Sunday shopping came up and at the time we thought council made the right decision, to hold a public meeting. The meeting, we thought, would decide the issue democratically, but no such luck. After two months of interviews, press releases and then finally the public forum, Kenora council voted five to two in favour of Sunday shopping.

During the months of the debate, we basically dominated the issue. The local media did a poll. They did not publicize this poll very well because it did not go in favour of their beliefs. It did not go in the editor's comment, but the people, the public, the majority were against Sunday shopping. Our arguments fell on deaf ears, which I hope they do not here, because I do not like attending token meetings.

There were arguments put forward by Kenora council. Tourism was one of the arguments and, after listening to the briefs by my fellow people from Kenora today, I will even give some credibility to some of the things that were said. The thing is, I think, for any of you people who have been to Kenora, you would agree with me that living on the Lake of the Woods, the most beautiful inland lake in North America, possibly the world, people do not come to Kenora to go Sunday shopping. Being a tourist town, the small stores were allowed to open before; there are some very unique shops that did open. Now with the larger stores open, it is only natural that people are going to shop on Sunday, but I am sure they did not drive, as I said before, hundreds or even thousands of miles to come to Kenora to shop on Sunday.

1530

The opening of the bypass is another argument put forward: if we do not have Sunday shopping, people will go on the bypass. I do not particularly know what the bypass has to do with it, but if I see Sunday shopping, I will probably take the bypass, because I personally am dead against it.

At the council meeting, the Sunday shopping issue was passed. There were councillors who tried to answer the fears of the labour movement. One councillor said, "We'd keep a close eye on the larger stores and make sure they didn't force people to work." With all due respect to the councillor, I think she had better get out from under that mushroom. We in the labour movement have been trying for years to stop the manipulation of employees by employers, and we cannot control it yet. This councillor has been in business and, as I said, I have a lot of respect for the person. She was in business, I believe she said, for 32 years, and she worked Sundays and allowed her employees to be off. If all business people were this honest, this dedicated and this down to earth, there would be no need for a trade union movement in this country.

Another councillor stated—and I am glad there is not a women's contingent here—"We're not pulling the old ladies away from their stoves; the students will do the work." What happens when you cannot get students? In Kenora—and I have talked to small businesses there too; my family is very much involved in the business community—small businesses are having a hard time getting people to work now. The management of some of our larger stores told their employees in the retail trade industry, on a one-to-one basis with no witnesses, "You're going to work, like it or not."

There was another councillor who said the present bylaw discriminates against larger stores. He is right; it does. But it also ensures the survival of the corner store. This argument reminds me of deregulation and free trade. We know what that has done. When you are not on a level playing field, you cannot compete. The free trade deal has shown us only too much of that in the trade union movement by a loss of 250,000 jobs in this country. The corner store cannot compete against the superstores.

In Kenora, two stores basically had the big push on—maybe one more than two, the presentation you heard today. But there were two that had the biggest push on. The others sat back and did not really say a lot. As you also heard, Woolco was opposed to it. They even asked their membership to get out and fight the issue because they did not want to open on Sunday but would be forced to do so. Within a couple of weeks of Sunday openings, six larger stores had opened, and I think on your briefs you are going to see seven; I found another one somewhere. I do not know where I came up with the seventh store, but I did correct it.

This in time will have a ripple effect, eventually having the service industry open, and there will no longer be a common pause day. When I say the "service industry," I do not just mean the service industry that is open now. The suggestion has been made today to let business run business; let everybody open. It is only a matter of time until our whole operation will be based on a seven-day week, not just in industry but in the retail trade, services, the town workers, everybody. When you have those many demands out there, you have to satisfy them, and it would only be a while and everybody would be working.

I am employed in the pulp-and-paper industry, where operating crews have to work on a seven-day week. Some

of the greatest arguments for this, which have been brought up here today many times, are that it costs a heck of a lot more to shut down a paper mill than a retail store. You are talking about \$200,000 per startup. In our last round of negotiations, we were forced to give up three of only five shutdown days we had a year. We now shut down, as of our last contract, only for Labour Day and Christmas. We already know, and they have told us in no uncertain terms, that in this decade the paper industry is going to run 365 days of the year. I ask this committee, where does this all end?

I have a few more comments. I jotted down a lot of stuff sitting here all day listening to presentations, including one presentation from the town council. I would like to inform the gentleman that I made a presentation at the council when it decided to go with Sunday shopping. I have never been in one of the stores that open on Sundays; I stay with the corner stores. So I suggest he go to the optometrist.

Another comment that was made here was, "Let business run business." Mr Carr and Mr Sorbara seem to think this is a really great idea. I will tell you something. You go out and tell those 400 people from Abitibi between 40 and 60 years old who cannot go anywhere that business running business is the right way to do things in this country. Tell the other thousands of people who are going to lose their jobs in the paper industry because the paper industry mismanaged the industry. The employees did not mismanage that industry. They even had enough to say in negotiations. For the last year, we negotiated with Boise Cascade, who admitted, "Yes, we mismanaged our industry," and they were not regulated before. I suggest that maybe we need a little more regulation in industry and in business.

I am open for comments.

Mr Sorbara: I am sorry I left you with the wrong impression. I do not support the notion that we should just let business run business. In fact, I disagree with the position that you take in your paper where you say in effect that we have to have the trade union movement and the labour movement because of manipulation by employers. My own view is that a good employer has a good relationship with a strong and vital trade union in its place of business. It is the lousy employers who fight the workers' right to organize and, if the workplace is organized, fight the trade unions' responsibility to negotiate a good collective agreement. I think healthy labour relations require both a reasonable employer and good representation on the part of the workers.

Our problem here is that the world has changed dramatically over the past seven or eight years. You say you hope this committee listens. I put it to you that, collectively, about 75% or 80% of the people of this province—workers, trade union and non-union workers, people who are out of the workforce entirely, people who work a few days a week, all sorts of people—now support the notion that stores should be allowed to open on Sunday if they want to open on Sunday. If we are really listening, should we not be saying to the government, "Look, that's the will of the people"? What is wrong with that? If in your union you voted 80% to accept a collective agreement, should

the 20% who say they disagree with the terms of the collective agreement prevail and the contract not be signed? Who is it that is not listening?

Mr Canfield: To answer that, if we vote 80% in favour of a collective agreement, that collective agreement entails the people who were voting on it. We heard a lot about referenda today, and you are saying that 75% of the people are in favour of Sunday shopping, yet I heard 70% of workers do not want to work on Sunday.

Mr Sorbara: That is simply not so.

Mr Canfield: So whose voice are we hearing?

Mr Sorbara: Okay, let's say that 100% of the workers do not want to work on Sunday. That is not a problem because the government, in its wisdom, has allowed every single worker who would prefer not to work on Sunday to phone in with 48 hours' notice and not have to work, with no recrimination whatever. I suggest to you that you do not have that right at Boise Cascade or at Abitibi, to absolutely refuse without any justification whatever. We are protecting the workers, so we do not have to worry about that 70%.

That aside, 75% of the people, not just in Kenora but right around Ontario, would prefer to allow stores to open. Businesses would prefer to remain open. Some would prefer to remain closed, and they have the right to do that. Why is it undemocratic to allow that to take place?

1540

Mr Canfield: There are a lot of things in the Labour Relations Act. If you for one minute believe that business people stick to that book like a Bible, you are under an awful big mushroom too. I can tell you there are a lot of people out there who manipulate that Labour Relations Act like you would not believe. I hear from people every day who do not get paid for holidays, and I am not talking odd cases; I am talking in Kenora about hundreds of cases.

Mr Sorbara: I am aware of that because as an MPP I have people coming to my offices complaining when that happens. I am aware of it because for two years I was Minister of Labour. In all that time, I have never had a retail worker come to my constituency office or come to me as Minister of Labour to tell me that his or her employer has been jacking him around or forcing her to work on Sunday when he or she did not want to work on Sunday. That has been all the evidence before this committee, that it is just not happening out there. Maybe it is because there are not many jobs around. I agree that on health and safety, and on a whole bunch of other things, there are a lot of bad actors out there. But on this issue, if we have heard anything before this committee, it is that this is not really happening.

Again, 75% of the people want Sunday shopping. The workers are fully protected, and those who do not get protection do not seem to care enough to complain to the people to whom they should complain. How many complaints have you had in your labour council from retail workers who have been forced to work on Sunday against their will?

Mr Canfield: You better remember something—

Mr Sorbara: Answer my question.

Mr Canfield: I have not had any complaints from anybody who was forced to work, but to further answer your question, you better remember something. This is very new. Do you think people who have just pushed to get a law pushed through so they can open their stores are going to manipulate the thing the first year it is imposed? Wait for three or four years down the road and see what happens.

Mr Sorbara: I have taken too much time and Mr Poirier had a question or two.

Mr Poirier: This is exactly what I wanted you to expand upon. In your presentation, you mentioned that you had had some indications that people on a one-to-one basis were being intimidated and told that they will have to work. Does that mean that they were forced—"You work or you are fired"—or what? What have you heard about this? You are the first one in my week of hearings who is bringing this up. I would like you to expand on that.

Mr Canfield: These were comments made before the Sunday shopping bylaw was changed in Kenora. I would imagine and hope that these people went to their union, which would be the UFCW union. That is their first course to go through, their own union. Nobody has come to me at this time and stated that he or she was forced to work.

Mr Poirier: All of us have indicated that we feel a government law should strongly protect any worker so that he or she is not forced to work on a Sunday. That is not just the NDP. All of us believe this, and that is why the law should be damned strong. If you have any cases of that, please make sure you come forward.

Mr Canfield: Another side of the coin is that there are a lot of people, especially in the retail industry, who are working—maybe housewives, maybe single mothers—who are scared to come forward even to their own union. They are manipulated and they are scared to come forward. This is a fact. That is human nature. You tell me.

Mr Jackson: I am increasingly uneasy about the three labour movement representatives talking about women not having any representation here. Hopefully the situation in other parts of the north will be different.

I am trying to get a sense from your brief of what parts of this legislation you find good and which parts you do not. I am saying that very straight up with you because, on the one hand, you do acknowledge that tourism is an important part of the economy in your region and that there are jobs. By the same token, do you support that this legislation offers worker protection? As I listen to you carefully, I am getting a sense that you think the experience is that government cannot do the proper policing to ensure that there are not the kinds of intimidation.

I am just trying to understand if this brief means just that you are against Sunday shopping, period, end of sentence, or if we are talking more in terms of the details of what parts of this legislation you actually support and do not support.

Mr Canfield: If we did not have Sunday shopping, we would not have to worry about it, would we?

Mr Jackson: Your rhetorical response does not help the committee get a sense of where your labour sector stands on this issue. I will give you a couple of direct questions.

Is there anything in the legislation, or do you have concerns about layoffs that are directly related to those stores that previously were engaged in Sunday shopping and then find they are not able to under this legislation? Have you concerns about those layoffs and lost wages with respect to people who are no longer working as a result of that? I do. I am not part of the labour movement, but I have concerns about that.

Mr Canfield: To answer your visit question, yes, our labour council is opposed to Sunday shopping, period. As to these people who are employed, yes it is going to be a problem. Once you have got it in, it is like anything else, it is hard to get out.

In the instance of Kenora having Sunday shopping for the last year, mind you, in the summer not in the winter, where was the employer in the wintertime? If he wants to create all these jobs, why did he not stay open in the wintertime? Let us get to the bottom line. The bottom line is profit. It is not being Mr Nice Guy and employing people.

Mr Jackson: The bottom line is traffic.

Mr Canfield: The bottom line is profit.

Mr Jackson: It is traffic as well, which is defined by profit. Boise Cascade would not run extra shifts if there was not the market for the paper, and neither did Algoma when there was not the market for steel. That is traffic. That is the amount of inventory they can move, and the retail industry is very sensitive to that as well.

I am still not getting a sense whether you do or do not support this legislation. If you do not support the legislation I wish you would say so, and if you do support it tell us what aspect of it you do support. For example, with your statements about the role of business, do you support the concept that businesses can proceed to the approval stages at council once they get approval from their local chamber of commerce?

Mr Canfield: I agree with certain businesses being allowed to be open.

Mr Jackson: That is not what I asked you.

Mr Canfield: I am getting to that. I do not agree with the square footage regulations. I think they are too high. Anything under 7,500 square feet: I believe these are too high. I believe they should be reduced.

Mr Jackson: My question is not about the square footage, because no one has a consensus on that. My question is, if it was the square footage that you wanted, do you support the principle of a precondition of approval, being that the chamber of commerce in its wisdom decides whether or not that business should proceed? This is a legitimate question for the labour movement. Should the labour council be given permission? Is that not the balance in the partnership arrangement? I am just thinking out loud here. Why are you fully supportive that the chamber of commerce as an entity will make decisions and recommendations that are in the best interests of the workers?

Mr Canfield: It is a two-way street. You have to have input from labour and from the chamber of commerce. There is no doubt about that. If we had had a balanced council with the meetings we had last spring in Kenora, we would not have Sunday shopping today.

Mr Jackson: You have established in your presentation that council lacks balance. There are two bodies that are going to decide that these larger stores get permission to open: the council, which you have already indicted, and the second group is the chamber. I am trying to get you to answer, for our clarification, if you support the chamber having that power of decision-making as part of that stage.

Mr Canfield: I would support a three-way partnership in power but not just the council and chamber of commerce, no.

Mr Jackson: So as it stands it is insufficient in your eyes.

Mr Canfield: That is right, because you are dealing with three parties: business, labour and government.

Mr Jackson: You may have been present earlier today for one of the presumably larger stores that you are referencing, the Canadian Tire store. Do you have any difficulty with the manner in which the Canadian Tire store, as an independent proprietor-owned store, conducted its discussions with employees? That was shared with us in some detail.

Mr Canfield: That is a hard question to answer. You heard one side of how they conducted things with their employees. If Mr Bishop is on the up and up, I think he did a great job, but unfortunately I talked to a lot of people—I will not get into names of businesses or anything—and sometimes with these business people who are on the up and up and are so honest and down to earth, sometimes you get a different story from the people who work for them.

Mr Jackson: Let's be careful now, because you are here on the public record. You are not talking about Mr Bishop's approach.

Mr Canfield: No, I am not. I am generalizing.

1550

Mr Jackson: I asked you specifically about the elements of Mr Bishop's approach. I have done a lot of labour negotiating, have been to the labour board and I am familiar with the processes and protocol. I thought he had a sensitive approach in terms of consultation. It was in writing—God knows, that is an important element to workers—the stated guarantees of non-reprisal. I thought he had all the elements that you would require. Your unhealthy, perhaps, scepticism of human nature you are entitled to, but at least in that case have you cases in Kenora that you can point to?

Obviously no one at the Canadian Tire store complained to you. Have you received other complaints? When we asked the Ministry of Labour staff of this province how many complaints they had received when we had wide-open, unfettered Sunday shopping in this province, for the entire province they said between 15 and 18 cases. Were there a lot of those in Kenora of the 15 or 18 that

were reported? There would probably be more; I will give you that benefit of the doubt.

Mr Canfield: I will not state whether anybody from Canadian Tire store reported anything or not; I do not think that is appropriate here. But in comparison it is amazing how unpopular the GST is and yet hardly anybody complains about that to the government.

Mr Sorbara: Come to my constituency office.

Mr Canfield: According to the media on the amount of people that have made complaints.

Mr Fletcher: You were talking about the erosion of collective agreements and what you have gone through as far as giving up the stat holidays is concerned. Being a member of the Canadian Paperworkers Union I know what is going on there. I look at what happened out west when Sunday shopping came in. Employees out there were getting double time for working Sundays, and as Sunday shopping came in it got knocked down to a premium and then got knocked down even more. I had a feeling, as you were talking, that this is one of the things you foresee, the erosion of the rights that employees have gained over the years through the collective agreement. Is that right?

Mr Canfield: That is right. I was going to get to that point before, the things that were done at the Canadian Tire store—as I say, I have no reason not to believe it is on the up and up—by giving the employees premium time. We know that in the foreseeable future, if Sunday shopping does come in, whether it be under tourism and then whatever the excuse is after that, in a matter of time we are going to have wide-open Sunday shopping, we are going to have wide-open services seven days a week in this country, and when we have that we are going to have the same thing that is happening in the United States right now: The premium time is disappearing. Year by year the people in the US are losing the premium time on Sunday, and the exact same thing will happen here. As one of the speakers said, we are five years behind; well, we are catching up rapidly.

Mr Fletcher: Is that the kind of social system we are looking forward to?

Mr Canfield: That is not the kind of social system the people I represent are looking for.

Mr Fletcher: Just another point, and this is more of a point when we are talking about what happens to employees and that no one is hearing what happens to employees: There were two staff who were suspended from a Steinberg's store in Kanata for wearing the button you are wearing, "Say no to Sunday shopping." They lost their pay and that went through the grievance procedure. Perhaps that is why the Ministry of Labour does not hear much, because it is going through the internal grievance procedure before it gets anywhere else and cases are probably getting solved at that juncture. Why is the labour council, and this is my last question, backing UFCW in this?

Mr Canfield: We are backing them for the same reason that the chamber of commerce is backing the Canadian Tire store, Safeway or anyone else.

Mr O'Connor: Unfortunately, time does not allow all of us an opportunity to speak and question every witness. I would just like to clarify one thing for the record. I believe one of the members opposite posed this question to the chamber of commerce: "Do you feel the Premier and the government of Ontario know your area better than you do?" I would just like to express, from the government's side, that we do not feel we know your area any better than you do. In writing the legislation over 60 groups were consulted. We are going around the province, and that is why we are coming and asking you for some input. I would like to clarify that. It might have sent a wrong message out that does not need to be sent out, especially in these difficult times.

Do you believe we are striking that balance between the rights of the worker and the tourist criteria concerns? The business community that had been voicing its concerns to us has been talking as retail operators in the tourist area. Do you believe we have struck that balance with this legislation or do you think there are areas that should be addressed?

Mr Canfield: I think this government has come a lot closer than the last government. At least they made a decision.

Mr O'Connor: I thank you for that. Perhaps you have to approach some of these chambers and work together with them, which should be very challenging for you. It seems to me that part of their problem is the bypass there, the tourist business that they are trying to bring, and they are confusing that. You have spoken on seven-day shopping and the tourist. If the road goes around the town, perhaps they need to come up with a better plan of attracting those tourists.

Mr Canfield: To help you out on that, as a matter of fact we did work together with the chamber of commerce on the bypass issue and did give our support on the concerns it had at the time, and also voiced some concerns we had at the time. So even though it was not unanimous with our labour council that we climb into bed, as they say, with the chamber of commerce, we did work co-operatively.

Mr Morrow: We know that 70% of the workers in Ontario really do not want to work on a Sunday. Does that concur with your membership or is that actually higher with your actual membership?

Mr Canfield: I would have a hard time with that. Our labour council is united as far as the Sunday shopping issue goes. We have never had anybody at a meeting who disagreed. There are people on the shop floor, we all know that. Nobody in our labour council has disagreed. We were unanimous in our efforts against Sunday shopping, unlike the chamber of commerce. They were not unanimous.

The Acting Chair: Mr Canfield, thank you for taking time out this afternoon for your presentation.

ONTARIO HOTEL AND MOTEL ASSOCIATION

The Acting Chair: I would like to call our next presenter, Mr Don Johnson from the Ontario Hotel and Motel Association. You will be allowed 30 minutes for your presentation. You can either do a 30-minute presentation or else do a shorter presentation to allow time for questions

and answers from members of the committee. Please identify yourself for the record and proceed.

Mr Johnson: I am Don Johnson. I am president of the Thunder Bay District Hospitality Association, which is under the ring of the Ontario Hotel and Motel Association. I am sorry I have not been here all day, but I just arrived in town from doing Sunday shopping in Duluth. I was shopping, of course, and there were more people shopping there on Sundays than there have been every other day of the week.

I have a written thing. I just found out about this so I will read what I have and take questions from there.

The Ontario Hotel and Motel Association has been incorporated since 1925. The objectives of the association are to represent the hotel, motel and food and beverage industry in government and legislative matters; to provide means for members to exchange information on problems and new ideas; to review industry trends and develop forecasts; to provide guidelines for professional conduct in the industry; to provide educational programs and services; to provide guidelines for accommodation and operating standards in the industry, and to act as a focal point for organizing joint efforts among members for solutions of industry problems.

The Ontario Hotel and Motel Association represents over 1,200 members who own and/or operate large and small businesses in the hospitality industry, such as hotels, motels, taverns, restaurants, resorts and lodges throughout the province. The association's membership represents over 51,000 bedrooms, 150,000 licensed dining and lounge seats, employing over 45,000 people, which increases during holiday seasons.

We respectfully request that members of the standing committee on administration of justice consider the following: that Ontario encourage tourists and visitors by having unrestricted retail shopping on Sundays and holidays, in all areas throughout the province, as the market dictates, without any restrictions.

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The Ontario Hotel and Motel Association is in favour of unrestricted Sunday and holiday shopping. We feel that unrestricted Sunday and holiday shopping is vital to our economy and the tourist industry throughout the province.

In a market-driven economy such as ours, consumers should be allowed the freedom of choice to decide which retail businesses and establishments they wish to patronize. The open and free market should be the final arbiter whether or not retail businesses function on Sundays and holidays, while still respecting the employment standards. Unfair and inequitable legislated restrictions are the worst form of economic blackmail in a free market economy.

As well, Ontarians deserve the right to work, earn incomes and profit from the production and sale of goods or the provision of services any day of the week. Economic prosperity generated in a free and unrestricted economy would benefit all Ontarians and their quality of life.

Retail shopping is an integral part of the tourism experience and represents a significant portion of the value of all tourism expenditures in Ontario. Most retail shopping,

dining out, touring, sightseeing and recreation takes place on weekends. Shopping has become a family outing, and the majority of Ontarians and visitors favour retail shopping on Sundays and holidays. The popularity of cross-border shopping shows that Canadians will travel to the south, not only because they perceive the products to be cheaper, but also because of the ease of access to these goods.

This industry is the largest private sector employer, and the service sector accounts for 70% of all new jobs. Tourism is responsible for the creation of 32 full-time jobs for every \$1 million in tourism expenditure. We employ professionals, skilled and unskilled, and are the largest employer of women, youths, indigenous people and visible minorities. There is no other employer that is capable of this range of employment opportunities for permanent or part-time employees of professional service staff whose educational achievements vary from elementary through to college or university background.

Tourism generated in 1990 direct expenditures of \$15.5 billion, with estimated total income of \$22.5 billion and estimated total sales of \$36.9 billion. It is one of the nation's largest generators of personal income, corporate, property, business and sales taxes to all levels of government, including \$1.85 billion to the province of Ontario, \$2.5 billion to the federal government and \$300 million to municipal governments in 1989 alone.

The closure of retail businesses on Sundays has meant job losses to many, especially students who rely on this income for their schooling. Our members throughout the province are reporting a large drop in business. They strongly feel that the availability of Sunday shopping will alleviate slightly the slumping economy. Of our members surveyed, 75% have said that closing the stores on Sunday has meant a decrease in revenue. We recognize that other factors have also contributed to the decrease in revenue, but feel that the freedom of choice to open and work at retail businesses on Sundays and holidays is a means to reverse this problem. This revenue, to quite a few, means survival, and unless retail shops are allowed to open on Sundays to draw tourists and visitors to their respective areas, many will have to close their businesses.

Obviously the hardest-hit areas are the border cities. Ontario will remain uncompetitive and continue to lose billions of dollars worth of annual tourism sales unless we change and allow unrestricted Sunday and holiday shopping.

The hospitality industry is faced today with many obstacles and increased operating costs. In order to remain competitive and recapture some of the lost business from our neighbours to the south, we must have the ability to compete on a level playing field. Bordering American cities are wide open for retail business on Sundays and holidays.

Bill 115 does have some merit, and we appreciate the Ontario government's recognition of the value and importance of tourism in this legislation. We do, however, feel that interpretation of the tourism criteria would create a lot of confusion, not to mention an administration nightmare in time and cost. To limit the timing for municipalities to declare themselves as tourist areas is also too restricting, as

circumstances could, and most likely would, change at a later date.

The concept of a common pause day in Ontario is outdated and discriminatory. Multicultural Ontario in the 1990s is populated with every religion and ethnic background, and to allow one faith, belief or ethnic custom to dictate the lifestyles of everyone is wrong. Our contemporary society shows that Ontarians work at all hours of the day and night throughout the week. Hotels, hospitals, transportation, to name just a few, all must work on a 24-hour, seven day a week basis. While some people rest, others conduct business and provide services. Their professions are a necessity to any community, and I do not believe their quality of life is diminished by their work schedules. We must provide these products, experiences and services to our customers when they want them or risk losing them to other competing jurisdictions.

We appreciate that the proposed amendments to part XI-B of the Employment Standards Act recognize the operating realities of our industry. It is most important that all employers retain the right to schedule work and dictate work schedules. It has been reported that out of more than 10,000 inquiries and complaints registered with the employment standards branch of the Ontario Ministry of Labour in 1990, fewer than 15 were related to the right of retail workers to refuse to work on Sundays and holidays.

In closing, I ask that you bring Ontario forward and that we become once again the province to lead. We have a tendency to live in the past, remembering how mother was home in the kitchen and the smell of fresh baking greeted us as we returned home from school. But we all know times have changed, and we must also change, not only to keep up with the times but to take the leadership role in this changing society. We always remember the good things in the past, but we also remember that change is good, and change is what keeps us alive.

What happened when stores were allowed to open on Sundays? Has the public been asked, both workers and shoppers? We have to grow up. We always want what our memories think is best, but does that mean we hold back progress? We are constantly being told that we live in a free world where we have the freedom of choice. The freedom of choice to open retail outlets on Sunday is not a luxury but a necessity, because to many it will mean survival.

Mr Sorbara: Mr Johnson, I want to ask you a question about the workers in the area you represent in the hotel and motel business and retail workers generally, because after all, as the government puts it, the entire thrust of this legislation is to afford a measure of protection to working people, and that is, by the way, a very important and good objective in the minds of most of the people on this committee. After all, if we are not concerned about our working people, what are we concerned about? In fact, the government has stated that this bill is designed to provide additional rights to retail workers.

When the current Minister of Labour, the member for Hamilton East, Bob Mackenzie, was in opposition, his position was very much like the position of the labour council from which we just heard; that is to say, that retail workers will inevitably be exploited and the only way to

protect them and to give them the right not to work on Sunday is to keep the stores closed. In fact, when our government introduced a bill to give strong protection to retail workers, he said that bill was not worth the powder to blow it to hell. The only way, he said, to protect retail workers is to close the stores, and I guess that is a valid point of view. In fact, the labour council right around the province is still advocating that view, although Mr Mackenzie and the NDP in government have taken a different position. They no longer are arguing to protect retail workers by way of keeping the stores closed, at least in those stores that might be of some interest to tourists, who of course are the rich people who can travel more than 40 kilometres in order to do their shopping.

I guess what I want to hear from you is whether, in your own experience and in the experience of your members, there is an underlying exploitation of workers, forcing them to work when they do not want to work and, in particular, forcing them into the stores and into the workplaces on Sunday when they would prefer not to be there.

1610

Mr Johnson: I do not see how you can force anybody in to work on a Sunday, a Monday, a Tuesday, any day of the week. A Sunday is no longer a religious day, and calling it a common pause day—a Sunday is no different day than any other day of the week.

Mr Sorbara: That has a kind of new age connotation to it, does it not, common pause day?

Mr Johnson: Yes, common pause day.

Mr Sorbara: They do not even know about that in Chicago.

Mr Johnson: Let's have the common pause day on Tuesday. Having a store close, what does that create? It certainly does not create income. If I close my business down one day a week, what happens when it becomes two days a week? I do not make any money on that one day.

Mr Sorbara: Hold on a second. You have to appreciate my problem. My problem is that the whole thrust of this legislation, and we have heard it from the parliamentary assistant to the Solicitor General and the government members and the other ministers, is to protect retail workers, not to further religion. They do get a common pause day, but, by the way, this is not a common pause day for workers at Boise Cascade; it is a common pause day for retail workers and retail workers only, because they are being exploited. If the government did not protect them, they would have no protection.

Are workers being exploited out there? Are they forced to work against their will? If they are not being exploited, then the very purpose of the bill is meaningless. If there is no exploitation, why have the bill? If we can determine in these public hearings whether or not retail workers are being forced to work or, say, motel workers or hotel workers are being forced to work against their will, then we should have a bill, I agree. If there is no exploitation, we can pack up and go home. So what about it? Is there exploitation or not?

Mr Johnson: There is no exploitation of the workers. I do not know of anybody in Ontario who is legislated or anyone who has to work more than a 40-hour week unless he chose to do so to earn extra income, whether it be in my industry or in another industry.

Plus, saying that you are closed is not exploiting the worker; it is also taking a job away from another sector that needs that employment, the person who works at Great Lakes who needs that second job to make ends meet because he wants that colour TV, so he goes out and works in my industry and earns that extra money. You are exploiting him. You are not allowing him that chance to do that, because you are taking a whole day of that earning power away.

No one has to work more than 40 hours a week and no one is asked to work more than 40 hours a week.

Mr Daigeler: Before we go home, I do have a question that I thought perhaps the government members would have asked a long time ago, because the tourism representatives have very strongly made the argument that the common pause day is outdated. Would you go so far as to say that really all sectors of society should work on Sundays? You are very strongly arguing that you have the right to work and therefore you should be provided the opportunity. Should that therefore not also include the schools, government, us as well, and we really should go away from that idea of not working on Sunday at all?

Mr Johnson: You mean leave Sunday closed for—

Mr Daigeler: That is correct, yes.

Mr Johnson: I think that would be an impossibility, but I do believe that there should not be a Sunday closing day of anything. There should be a seven-day week of operation. It does not mean a seven-day week of an employee having to work that seven days.

Mr Daigeler: Right, but you would say that city hall, for example, should be open seven days a week.

Mr Johnson: Very much so. I have all kinds of things I need done on a Sunday that I cannot possibly do, and come along Monday, when they are open, I am working or I have to do something else.

Mr Carr: Thank you very much for your presentation. One of the questions I have, one of the feelings that have been put forward, is that as a result of this legislation, we will have certain areas that will meet the tourist criteria and they will open up. You obviously are familiar with some of the people who would be in that industry. Do you think that would give one region a certain advantage over another region for the people in your industry? As a result, do you think what we will probably see is that different municipalities will say, "Our neighbours are open, so we have to be"? Do you see it happening as a snowball effect with the tourism criteria?

Mr Johnson: No. A barber shop is closed on Monday, yet there are other salons that are open on Monday. I do not see forcing other barbers to open on that particular day. Usually they work alone. If Thunder Bay chooses to be open on Sunday, I do not believe Kenora will feel it has to open on Sunday or on a common pause day, be it Sunday

or Tuesday. I do not see any effect on that, but I do not believe it should be delegated to just one area in the province, because I believe tourism affects the whole province.

Let's face it, I just came back from Duluth, like I said when I started. One common practice is that I can shop. I am not there to shop. I do not personally go down there to shop; I go down to get away. If I need a necessity and that store is open or I need something or I find something that I would like to purchase, I am capable of doing it there. Duluth is very much an area exactly like Thunder Bay except it has Sunday shopping.

Thunder Bay retail business relies a lot on Armstrong, Manitowadge, Longlac, Nipigon, Red Rock, Ignace, people who live outside what we call a big metropolis, which is Thunder Bay. They cannot get the items we provide. They have to come here. A lot of them work and can only get away on a Saturday and Sunday. We are restricting them to that Saturday to do their shopping, and that Sunday to do whatever else. Maybe they would like to do that on Sunday. We are like Duluth. They have a lot of Sunday shopping, but not because the people of Duluth go out and shop; a lot of people from outside come in. There are a lot of small towns around Duluth too that do the same thing.

Mr Carr: One of the feelings that have been put forward is that a lot of the people who are interested in having Sunday shopping are big corporations, and the word "greed" has been kicked around and so on. It would seem, listening to you, that a lot of your members are not greed-motivated, they are survival-motivated. I wanted to see how your organization would see handling relations with your people on working on Sunday, how you would work it out. My feeling is that unfortunately this has happened. In the modern society, we have to work. Workers and the people who run businesses have to have better co-operation. As one lady said earlier, "If I have people who are working for me who are unhappy and they've got their face down to the floor, it's going to cost me business." How does your industry see working it out so we protect the workers while ensuring that you can survive?

Mr Johnson: The retail business as a whole, the mainstay of it, including the hotel business, the part I know of, a lot of it is part-time labour, a lot of it is unionized, a lot of it is very small. Most of my colleagues in the business operate on the premise of who is available. My schedule, personally speaking, is completely open, and that does not include just Sunday, that includes every day of the week. Who is available? This is how we cover it. Nobody is chastised because "I'm going away this weekend and I cannot make it," or "I won't be in town Monday, so I can't make work." I do not restrict those people and I do not know of very many people in this industry or the retail sector, where it is a small clothing store, any shopping stores at Intercity Plaza or anywhere like that, where they demand you be here on this day. They work themselves around it. All employees may request on the basis that they are leaving, their husbands are going or their wives are leaving and they are going with them, and I have very seldom turned them down..

1620

Mr Carr: This is maybe a product of the day and age, but one of the presenters—it was a small shop owner in a small part of Toronto—said he had a list of 200 people who wanted to work Sunday and he did not take time to argue with the one on the list. He just went to the next person because that person was more than willing. As you see it then, there would not be a problem getting people to work on Sundays in the area?

Mr Johnson: There would never be a problem getting people to work, not in this day and age. I mean, in my industry, especially for part-time people who are looking for extra money, this is when they are doing it, after hours, and they would prefer to do it on their days off because that affords them more time.

Mr Morrow: Just to make something very clear before we start, I think what we are talking about here is an overall quality of life, basically getting out of the rat race. The elimination, as I see it, of the common pause day will have a ripple effect on our society. We will see changes and spinoff effects in such things as day care, policing, busing. Where does it stop?

You have something that I think we all want here, and you mentioned it. Neither the Retail Council of Canada nor any other organization has done any studies or surveys on the financial effects of Sunday shopping, and you said you had done that. Can you please give that to us? Would that be possible?

Mr Johnson: Sunday shopping in our industry is survival. We are not looking for extra money to line our pockets with. All we are looking for is to pay our mortgages, to pay our taxes, to pay our employees. When we are not open, we make no income. So we cannot derive money from these closed days. When we are open, we can make income, and it helps us sustain ourselves. To be a small businessman in Ontario in these times—some may say the recession is over; I have not felt it yet. But if you are holding on to a large mortgage, employing 40 people and only making so much money personally, another day of opening is another day you are going to survive in this community.

Mr Morrow: You talked about section 11b, which is basically the Employment Standards Act, if I can think back on it. Do you agree with the worker's absolute right to refuse work on Sunday?

Mr Johnson: I agree with the worker's absolute right not to work on a particular day, not necessarily just Sunday. If somebody had a religious belief on a Sunday, that is a particular right. I would not steal that away from anybody. I would not steal the person's right to religious belief who celebrated on Saturday.

Mr Morrow: Just one last thing. I am going to answer a question you asked. The question you asked is what happened when stores were allowed to open on Sundays. The obvious answer for that is we had the worst damned recession this province ever saw.

Mr Jackson: Oh, for God's sake. How far did you get in school?

Mr Morrow: That's not very nice.

Mr O'Connor: I want to thank you for coming here today. Perhaps for some of the other members I could share one thing with them. Legislative research has provided us with some information, and in 1986 the Progressive Conservative Party had a task force going around the province. In fact, they went to 11 different centres and had over 130 oral presentations. Two of the main recommendations they came up with at that point were that the principle of a common pause day should be maintained and that employees not be required to work as a condition of their employment. I just wanted to share that with the committee.

One thing I would be curious for some input from you on: During that period that Sunday shopping was open, did your members in this area find you had an increase in demand for the service you provide? Do you have stats on that?

Mr Johnson: Not with me, but yes, we did have an increase in demand. As a matter of fact, why this Bill 115 affects our business in one part is that it is closing us, and we are open. If I go by my own scenario of my lounge, my lounge does better in eight hours on a Sunday than it does in 14 hours on a Monday or a Tuesday.

Mr O'Connor: Perhaps we could get some clarification on that point, because I do not believe you are correct in that. Could I just ask for some clarification on one point, whether in fact your business will be closed down on a Sunday?

Mr Johnson: It is now.

Mr O'Connor: Yes, okay. So it is not affected. We have heard from your parent organization, the Ontario Hotel Association, down in Toronto. They have shared with us that they felt that the biggest problems they are facing right now are the GST, the recession, high prices, which are forcing people to go across the border, the high dollar. We heard that from the Toronto people. Perhaps you could share some of your feelings on that, because you are perhaps a little closer to the border.

Mr Johnson: The GST of course affects. The high dollar, all those things, of course they affect us here. But as I am saying, for retail businesses to be open—the fact that they are closed on Sunday does not bring any tourists galloping towards our area. I mean, for one, we are fighting the cost of gas, the cost of alcohol, the cost of cigarettes as compared to travelling, which is what a tourist does. If you are an American and we are trying to bring you into our area of the country and you are paying so much more for gas, you are going to tend to stay south or go somewhere else. And to top off all these prices, to top all that off, you cannot shop on Sunday here anyway, or if there is some necessity that you have to get, you cannot get it here because the store is closed, or you have to hunt around town for a pharmaceutical that is open. You are at pretty much of a loss. If you are thinking of bacon and eggs for the Monday breakfast, you cannot get that here.

The Acting Chair: Mr Johnson, thank you for taking time out in your busy schedule to come in this afternoon.

Mr Sorbara: Mr Chairman, can I get one point of clarification from the parliamentary assistant?

Mr Mills: Is it 42 kilometres?

Mr Sorbara: No, it is not a kilometre question. It arises out of the questioning of Mr Morrow of the last witness. I have reviewed the various statements of Mr Mills and the Solicitor General himself, or actually the former Solicitor General, and the other statements that have been made by the government. My understanding was that the purpose of this bill was to create a common pause day, obviously for retail workers, because they are the only ones that were affected, and to promote tourism. I extract these from the very speech that the parliamentary assistant for the Attorney General gave in the Legislature.

What I get from Mr Morrow is that there are other purposes to this bill, and if that is the case, I think they should be put on the table. He suggested in this questioning (1) that the purpose of this bill was, to quote him, "getting out of the rat race"; and (2) that the purpose of the bill was a sort of an anti-recessionary measure, that this bill was going to come to grips with the recession, or at least he suggested that by saying Sunday shopping had something to do with bringing about the recession. Are these part of the policy objectives of the government in bringing forward this legislation?

1630

Mr Mills: The policy objective of this bill is, first of all, to protect and perhaps enshrine the common pause day.

Mr Sorbara: Is that for retail workers or for everybody?

Mr Mills: For retail workers.

Mr Sorbara: Only?

Mr Mills: Yes, to promote tourism and to put a sense of purpose and values into the quality of family life in Ontario through those measures.

Mr Morrow: On a point of order, Mr Chair: Do I not have the right as a member to ask any question that I feel fit to ask?

The Acting Chair: Nobody is questioning that.

Mr Jackson: But, for the record, he made an outlandish and stupid statement. I would not have jumped on his right to ask a question, but he did not ask the member a question. He answered it for him. He said that—

The Acting Chair: We are allowed to make comments also at this committee.

Mr Jackson: —we had a recession when we had open Sunday shopping and he rested his case that we no longer have it.

Mr Morrow: Can I ask for an apology, Mr Chair, please?

Mr Jackson: You made a stupid statement.

The Acting Chair: I beg your pardon?

Mr Morrow: Can I ask for an apology from the member for Burlington South?

Mr Jackson: You can ask all you want.

The Acting Chair: I do not think that was appropriate.

THUNDER BAY CHAMBER OF COMMERCE

The Acting Chair: Can we call the next presenters, the Thunder Bay Chamber of Commerce. You will be given 30 minutes for your presentation. You can either take the full 30 minutes or you can submit a shorter brief and then allow time for questions and answers from the committee. For the record, please identify yourself, and then proceed.

Mr Ringius: I am Dave Ringius, president of the Thunder Bay Chamber of Commerce. Our executive director is Rebecca Johnson, and our first vice-president of policy is Dick Dolphin.

Thank you for allowing us to meet with the all-party committee. I can recognize an all-party committee by the comments that were made. We have been through a one-party committee and it is a little more amicable.

Our presentation will be based on the articles we have given you in the kits. We will speak to the information as representatives of our business community.

The Thunder Bay Chamber of Commerce is made up of almost 1,000 businesses—900 plus—in Thunder Bay, and we represent the independent business community. The majority of our members are small with fewer than 10 employees, and a lot of them are in the retail and hospital-ity sector.

Our most recent survey indicates that our membership is in favour of Sunday shopping. More than 24% of our members responded to a mail survey. In questioning its validity, we have talked to survey experts and they say that a 24% response is above normal. On a mail survey, you can expect a 10% to 12% response, so we feel this is a valid survey of our members. It changed somewhat from our 1988 survey, prior to Sunday opening and free trade. At that time, our membership was not in favour of Sunday shopping. It was very close, like 47% to 53% at that time. Now 68% are in favour. However, our retail sector still does not support Sunday shopping. In 1988 they were adamantly against it. It is fairly close now, but the retail sector is still negative. We as a chamber have to represent our whole constituency, so our membership does favour Sunday shopping.

Also, there is a variance between the large and small retailers. The large retailers are against Sunday shopping. They feel that perhaps, being open seven days, the service will slide, that they are not going to employ more people, that they will give less service in order to support the Sunday shopping. Our local, smaller retailers, the independents, want the opportunity to add more value to their businesses; they look at the bottom line.

We have also included in our kits some articles from the various local newspapers. It will give you an idea of the local flavour of the issue at this time.

One thing we wanted to learn from our community was what and who should make the decision on Sunday shopping, or shopping at all. The membership indicated that the marketplace should dictate the times of opening, that they should not be dictated by government.

If there were a choice of which government should do it, if the marketplace does not, the survey indicated that the province should do it, that it should not be a responsibility of the municipality, that we should have one law for the whole province and not have different laws at the municipal level. But private business would like to dictate its own times of opening and let the marketplace settle the question.

The Thunder Bay Chamber of Commerce also conducted a survey at its annual trade show, which attracts more than 45,000 visitors and more than 300 exhibitors from the various business sectors in northwestern Ontario. That survey was similar to our business survey, the difference being that a number of people at the show would have been consumers, not just business people. They also indicated that the Thunder Bay community was in favour of Sunday shopping, and they also indicated that the marketplace should dictate the times of opening, not government.

We also have in the kit the Victoriaville survey. You have probably received it from some other presenters today. A mall in Thunder Bay did its own survey made up of retailers and service people in the area, and consumers. It also supported Sunday shopping. The retail sector there supported it more than our own survey showed.

The chamber will agree to its responsibility to affirm the tourism designation if the decision is kept at the municipal level, and to assign the tourist designation. The chamber would support anyone looking for that designation.

You have heard a lot about cross-border shopping. The Thunder Bay Chamber of Commerce was one of the first chambers in the country to recognize the magnitude of the problem. It was not a micro problem in Thunder Bay; it was macro. It has passed beyond our jurisdiction. At this point it rests with the governments to see what kind of level playing field we can make for our people in Canada, bearing in mind our standard of living and lifestyles here. There is a price to pay for that.

I am not sure anyone has any concrete data to indicate that Sunday shopping would stop cross-border shopping. However, during the trial period, during a recessionary time, a number of our members have indicated that it was a benefit, but they do not yet know the bottom line for the year.

One area the chamber agrees with is the 36-hour employee pause period in a seven-day week, but not necessarily on Sunday, because many of our members already work on Sunday. There is a small percentage who do not, so we certainly are in favour of that type of common pause day for the employee, guaranteeing time off in a seven-day period. North American culture is changing, and we are now in a traditional shopping mode. A lot of people shop in their own leisure time. Not everyone works a 40-hour week any more, and in a double-income family unit they do not always have the same days off.

Thunder Bay is the hub of northwestern Ontario. It is a major centre and a number of our mall outlets have indicated that since the Supreme Court ruling their trade has dropped. We are a draw for northwestern Ontario. A number of people come here. They leave their own smaller communities to come to Thunder Bay, and so from that point of view, Thunder Bay could be viewed as a destina-

tion point for weekend shopping. People from communities within 100 kilometres of Thunder Bay are now driving through Thunder Bay to do their shopping in Duluth, which is a three-and-a-half-hour drive anyway, so what is four and a half hours? It is no big deal when you are going that far. That is a concern to our operators in northwestern Ontario, and in Thunder Bay in particular.

In the multicultural society not everyone celebrates the same religious holidays, so we do not see that as an issue on Sunday.

Our data are based on our membership survey. At this time I would like to ask a question. There was a quote attributed to Mr Rae in the *Globe and Mail* of July 30. It said, "The arguments for Sunday shopping are familiar and will not change the government's plans," so I am concerned why there is an all-party committee on Sunday shopping if we are not going to be listened to.

1640

Mr Mills: Can I jump in here? The policy of the government is that the common pause day is not on the bargaining table. That will not change. We are committed to providing a common pause day to retail workers in Ontario.

Having said that, we are here to listen to what you have to say about the tourist criteria, and I must say that what we are doing here is unique. Usually a government presents a bill and the regulations come afterwards. They do not even come before the Legislature. They are just put in place alongside the bill. What we are doing here is very open, and it demonstrates the type of open government we are trying to put forth. We are putting the regulations out into the open for discussion, and for input from people like you to see if we can define and refine and make this Bill 115 work better.

The common pause day is the law of Ontario. It is constitutionally sound. It has been challenged through the courts, and I am afraid that it is here. We are here to listen to you about refining the tourist criteria and how we can best promote tourism in Ontario, which we recognize as a very big industry. We have no intention of cramping your style, believe me; that is why we are listening.

The Acting Chair: Are you done with your submission now?

Mr Ringius: Yes, we are. We are open to questions.

Mr Sorbara: I want to congratulate you on your survey, and I want to suggest that the results you have garnered in your own survey seem to be replicated right across the province. Generally about 75% of ordinary Ontarians favour a more open approach to Sunday shopping, while 25%, and shrinking, are opposed to any form of Sunday shopping.

I was interested in the results you had in respect of large retailers and small retailers. The reason I am interested is because the submissions that have been made to the government members, to this committee, and sometimes by the government, claim it is the mean, greedy, large retailers, who are out to capture more of the market, who are driving the Sunday shopping debate. You are telling us, I think, that in your own survey, the large retailers were more generally opposed and the smaller retailers

were more generally in favour of a more open policy in respect of Sunday shopping.

Mr Ringius: Yes, and again we do not have all the larger retailers here. We are not that large a community. We have Eaton's, Sears and Canadian Tire. We were not able to distinguish the large from the small. We are going on verbal communication and meetings with them. After we published the results of our survey, they called us to express their concerns. That is what we have heard from those sectors.

We also are very active in our retail committee. We have a number of small independent businesses involved, and we also have differences of opinions at those meetings. Some are totally against it and some are for it. The results of our survey do not surprise me, because our membership is made up primarily of small independent businesses.

Mr Sorbara: Now I want to take you to the draft regulations my friend Mr Mills was referring to, specifically to paragraph 3(1)4 of the draft regulations. That is the paragraph that requires any business that operates a store over 7,500 square feet to have included in its application for an exemption a letter of endorsement from the local chamber of commerce or visitors' bureau saying in effect that the chamber of commerce supports that retail business being open in that area on Sundays. Are you telling this committee that the Thunder Bay Chamber of Commerce is willing to take on that responsibility?

Mr Ringius: The chamber of commerce is willing to give a letter of endorsement to any member who wishes to seek that criterion.

Mr Sorbara: So you are not going to exercise any kind of function of reviewing the application? If someone applies, you will endorse it.

Mr Ringius: No, it has to be a member. If it is a member of the chamber of commerce, then we will endorse the application.

Mr Sorbara: What happens if the business is a non-member of the chamber of commerce? Just for purposes of argument, let's take the local Sears store, which is not up to date in its membership and applies to you for a letter of endorsement so it can complete its application to open on Sunday.

Mr Ringius: Our primary responsibility is to our membership. I do not know of any time we would go outside of that parameter. I do not have that mandate at this point in time. We act for our membership.

Mr Sorbara: I should tell you that the thrust of these draft regulations is for the chamber to exercise some sort of discretion, identifying what businesses in its view should and should not stay open. If you were to simply endorse every application from each of your members and reject every application from each of your non-members, you would be subject to a court challenge because you are not doing what the law requires you to do.

Mr Ringius: Certainly we would not want to be involved in any court challenge. That was not my understanding at this point, that they would have to get either an

endorsement from the chamber or the visitors and tourist bureau, of which I do not believe you have to be a member to do that. We are here on behalf of the chamber members. That is whom we would support in an application. We do not have, I believe, the expertise to verify whether they should be open or should not be open at any point in time. I do not see where our jurisdiction would come into that.

Mr Sorbara: I want to suggest to you that in the example I presented, if Sears is not a member and seeks your approval and you reject it arbitrarily, you would certainly be subject to an application before the courts to require you to perform your function. How are you going to support and pay for that court challenge?

Mr Ringius: Our executive director indicates that what would happen would be reviewed by the policy committee. Then it may or may not be endorsed by the executive, depending on the criteria we would enter into. If I seem a bit vague here, it is because of some of the wording in the law and, I believe, some of the grey areas. If we get into the designations of tourism and who is going to validate that, I guess by your questions, Mr Sorbara, you are indicating that the chamber may be involved in making those decisions.

Mr Sorbara: The draft regulations require the chamber to make those decisions. If they do not do them judiciously, I can tell you as a lawyer that you will find yourself in court in pretty short order.

Mr Daigeler: Obviously this is a very important subject that Mr Sorbara brought up. I am sure you will want to look into that closely. We as a committee will be looking at that as well when we come to amendments to the bill.

First of all, I really appreciate the package you put together for us. You are the first one who has actually put together clippings from the local papers. I just skimmed through it and it is very interesting, very useful, because we get a feeling of what the broad community is saying. Thank you very much for doing that.

You also included—there was reference to it earlier—the results of a survey entitled Victoriaville. What is this? It does not really give any explanation and I just wonder, what is this Victoriaville and where is that coming from?

Mr Ringius: Victoriaville is a local mall. It is called Victoriaville because it is on a former street called Victoria Avenue, which the city built over into a mall.

Mr Daigeler: And the survey is?

Mr Ringius: The survey was conducted there, at a gathering place in the mall, among the shoppers and the business people who work there.

1650

Mr Jackson: I am reminded of the old expression that there are two things people should never watch. One is the making of sausages and the other is the making of laws. I guess we are being somewhat exposed to that today. It is quite apt.

On that point, I want to delve a little deeper because we have waited to talk to the chambers about this very sensitive point Mr Sorbara has raised. Perhaps I can direct my question to the legal counsel who is here from the Solicitor

General's office. For the benefit of the chamber as well, do you concur with the statement that the chamber would be obligated to process all applications, and does the legislation refer to any time frame for the regulations?

Mr Ceyskens: The draft regulation requires four things. The first three of them are not really relevant to the discussion here. The fourth one I will read out for the benefit of those who do not have the material in front of them. It reads as follows:

"If there is a chamber of commerce, a convention and visitors bureau or a similar organization serving the area being considered, a letter indicating that the organization, or if there is more than one of them, one of those organizations, supports the opening of the retail business establishments in that area on a holiday."

That is one element of what is required for an application. If there is none of the organizations named in paragraph 4, then the person applying does not have to resort to paragraph 4. If there is any one of those organizations available—for example, if there is not a chamber of commerce but there is a convention and visitors bureau, then the applicant would have to go to the convention and visitors bureau. In brief, to summarize, the applicant would have to resort to that provision unless there are no organizations available to the applicant in the community.

The second part of Mr Jackson's question relates to a time frame. There is no provision.

Mr Jackson: I was fearful of that because I have had an experience in this very delicate area recently with a microbrewery that wanted to be open on Sundays for public tours. We had the local convention bureau's support. We went to the chamber to get support, but when we got to council it said, "The legislation is such that it gives us options here to proceed," so what we had was a Mexican standoff. Ultimately the microbrewery went bankrupt, but the point I want to stress here is that we found a flaw in that legislation. It was not time-sensitive; it did not say. So if a non-member approached the chamber or the convention and visitors bureau—in my view, there is a greater risk associated with the convention and visitors bureau proceeding, because it is not at arm's length from city hall and regional funding whereas the chamber is totally at arm's length from the municipality—you could simply just delay the process because it does not say when you have to process the application. I certainly want that matter resolved in the regulations.

I apologize to the chamber that I am asking questions of staff, but if I do not ask them while we have time I may not get answers.

The other question has to do with if you have received or given a written legal opinion to the Solicitor General with respect to the legal implications of passing authority to each of those named groups. As I raised in my point earlier, the chamber is at arm's length of the municipality but some of our convention and visitors bureaus get some of their funding directly from their regional or municipal governments. In one sense, they are not at arm's length. Was that aspect of it looked at? Aside from the overall legal question which was raised about liability by Mr

Sorbara, I also have some concerns about the inappropriateness of a convention and visitors bureau which receives municipal funding giving those kinds of recommendations. That question is for legal counsel as well to determine what legal advice was given to the Solicitor General in this sensitive area.

Mr Mills: I do not think this is the appropriate time to get into that detail. When we get to clause-by-clause, it will be a very good and opportune moment. I do not really feel we should put legal counsel on the spot here in this forum to answer that sort of question.

Mr Jackson: Why have we paid a considerable amount of money to bring four or five staff members along on this road trip with us if not to respond to the concerns in the presence of people who have legitimate concerns about that aspect? I also remind the parliamentary assistant that we will not be doing clause-by-clause on regulations. This will not come up in clause-by-clause because the regulations are being dealt with separately. I do feel it is appropriate. You are censoring your staff. That is fine. But it is not out of place to request clarification on legal advice that was or was not given.

The Acting Chair: I think we have had it clarified enough now. Basically what you are doing is just delving into more minor details on that. Could you proceed with your questioning? It has been brought up now.

Mr Jackson: No, I asked a very specific question. It was not in general conversation. I asked a specific question of the legal counsel. I raised the question earlier about if these restrictions covered native peoples in Ontario. Legal counsel was kind enough to give me a straight, specific answer and direct me to a legal case by which he guided the minister in his recommendations. I am asking him the same question now with respect to matters dealing with the regulation.

The Acting Chair: The parliamentary assistant has answered to the best of his ability at the moment, and that is as far as he chooses to go.

Mr Jackson: You have the censoring of a staff member and I think it is absurd. We can get it under freedom of information, but that is ridiculous.

Mr Sorbara: Just to be helpful, we might get, for the benefit of the chamber, at least a legal clarification from counsel as to what the legal implication of this section is in the event that the Thunder Bay chamber decides arbitrarily to support applications of members of the chamber and arbitrarily reject application of applicants who are not members of the chamber. Would it be okay for legal counsel to answer that? After all, you have put them in the legislation. They need to know what the legal ramifications might be.

Mr Ceyskens: I am comfortable with answering that question. The short answer to that question is that there would likely be a motion for judicial review of the decision.

Mr Sorbara: Just for the help of the committee members and the chamber, a motion for judicial review means that the applicant would apply to the Ontario Court (General Division) and bring probably the president, the

executive director of the chamber to court to force them to exercise reasonable discretion and not arbitrarily make choices. That will cost you money.

Mr Jackson: And timely.

The Acting Chair: Thank you for that clarification, Mr Sorbara. Thank you, Mr Jackson. Mr Fletcher.

Mr Fletcher: We have heard from chambers that the chambers are saying, "We don't want to do this." Suppose we take it out of the draft legislation? That is a possibility and that is what we are listening for. That is why we are here, to hear what you have to say. If you do not like it, then we can take it out. That is what the committee is going to do, so do not get upset right now, because there are no judicial reviews or anything. Exactly where do you see the chambers of commerce? Do you see a role for the chambers of commerce throughout Ontario as far as this legislation is concerned, as far as Sunday shopping is concerned? Do you see a role?

Mr Ringius: The role of the chamber is according to our survey, which indicated that they did not want any government involvement in stating when they should be open and should not be open. So if the short answer is, "Yes, we don't want to be involved in that," we think our members should determine when they should be open.

Mr Fletcher: Fair answer.

Mr Dolphin: I think part of the point here is that we as a chamber of commerce, and it has been stated in the Ontario chamber as well, are a little bit unhappy, in fact very unhappy, with the fact that things are being foisted on the business populace which has not had any input from any of the business people they are affecting.

Mr Fletcher: Oh, I agree with you.

1700

Mr Dolphin: This is another type of situation where I believe we would be against having something for which we would have to give an action, for which we had no input as to how to determine, as a gentleman put it, the time frame in which we had to act or the impact it could have. As our president has stated very clearly, we feel we only have the mandate from our own members, basically. I think we are saying here that we are being put in a position where we have nothing to say about being put there.

Mr Fletcher: I agree with what you are saying and perhaps somewhere down the road we will get into that mode where we can say, "How can you help us out?" That is fair.

You said that back before, when Sunday shopping was an issue, the membership was split on it. What about when free trade came in? What was the position of the chamber of commerce on free trade and the GST across the province? I know what it was in my area. On free trade and the GST, there was not a big approach from the chambers on them.

Mr Ringius: The approach the Thunder Bay Chamber of Commerce took was to educate its members on the effects. We did not take a position one way or the other because there was controversy on both of those. Generally, I think the business community was in support of the free

trade agreement. We ran seminars on opportunities under the free trade agreement and we brought in experts from across the country and exposed them to people not only in Thunder Bay, but we had facilitators in from the United States as well. We made it an opportunity. If it was inevitable, then we would go with it.

We took the same approach on the GST. We provided forums for our members and again, because we represent a fairly independent group of small members, they would all have access to high-priced tax lawyers and tax accountants. Our local firms here took their tax people and gave them free of charge for two seminars and we ran that. We had two sold-right-out venues to do that. We took an educational approach and we did not take a stance, one way or another, outside of supporting both the Canadian and Ontario chambers on their deliberations.

Mr Fletcher: Cross-border shopping has been blamed on the Canadian dollar, the GST and the effects of free trade. The one thing I remember you saying about Sunday shopping is, "Let the marketplace determine it." When the marketplace is determining where people are shopping now, why should we try to do anything about cross-border shopping?

Mr Ringius: I think we have to look at the tourism aspect of the Sunday shopping thing for attracting tourists here, and it gets into a border issue as well. We are into a number of areas and the out-shopping thing is not for Thunder Bay to decide. It is the unlevelled playing field that we have from a tax standpoint and as an education process on the consumer.

Mr Fletcher: So even though the marketplace and the consumers are saying, "We want lower prices," and they like the lower prices, and the GST and free trade were part of the problem, and you took a non-issue stand on something like Sunday shopping and it is not going to have that much of an effect on cross-border shopping, you have taken that stand.

Mr Ringius: I concur. We do not have any concrete data that would indicate Sunday shopping at this point would have any curtailment of out-shopping. We do not know that at this point. There are no data.

Mr Mills: Thank you for appearing here this afternoon. I have said it over and over again and I really mean it: We are here to listen and take into consideration all the things you have said.

I would like to change my direction at this time. I have heard here that we live in a time of changes. The other presenter said we are in a shopping mode, I believe. It is charge everywhere, shop, shop, shop. We cannot leave anything unturned, and notwithstanding the fact that we shop six days a week, we really have to shop seven. A long time ago when I went to school we learned a poem. I believe it was by Tennyson and it says:

What is life if, full of care,
We have no time to stand and stare?

I think that really is what the Premier was saying in his speech from the throne. We really should look at the quality of life and what all this does for Ontarians as a whole.

Apart from those of one or two of the labour organizations, I am rather disappointed at all the presentations I have heard from business and the presentations of the chambers and the tourist and hotel industries. No one has come to grips with what it means to Ontarians and the quality of life has been left out. I am disappointed at that. I thought we all had a vital interest in the quality of life here in Ontario as opposed to the quality of life in the United States. Some people say we are five years behind the times. If that is catching up, I hope personally we do not catch up for a long time because there is more to shopping and there is more to this than the eternal shop, shop, shop. There is another dimension. The Premier touched on this and I would just like to raise that today. I hope that as we go around the province, other people are going to address that issue of vital concern as we listen to people who seem to be neglected.

Mr Fletcher: Point of order, Mr Chair: Are we not allotted a certain amount of time? Our time has not been used for comment or anything else.

Mr Jackson: We are in committee now.

Mr Fletcher: Is that correct? They are still at the table.

The Acting Chair: Yes, they are.

Mr Fletcher: That is where Mr Mills was directing his comments?

The Acting Chair: That is right.

Mr Fletcher: Are we finished with these witnesses?

The Acting Chair: Yes.

Mr Fletcher: Are they going to be excused before any more comments?

The Acting Chair: We have to hear what Mr Sorbara's comment is.

Mr Fletcher: Are we going through each party to do another comment?

Mr Jackson: Maybe if you wait you will find out. Incidentally you do not have to apologize.

The Acting Chair: We do not know what Mr Sorbara had to say.

Mr Sorbara: I did want to make a comment following upon the comments of Mr Mills which, I regret to say, I found somewhat regrettable and unfortunate. If my friend the member for Guelph prefers that the presenters step back from the table, I am certainly willing to defer until that happens. You may rule that there is no more time for anyone to say anything.

My point, and it is a quick point, is that I do not think any of the people who presented to us today are advocating that we simply cede our values to American values. I think all the presenters, both those who were for Sunday shopping and against Sunday shopping, were genuinely trying to help this committee come to grips with an issue that it seems Ontario must consider in a public fashion

every few years. I say to the parliamentary assistant to the Solicitor General that he should not misinterpret either the comments of the chamber or those of any other of the presenters. They simply presented to us the commercial problems they confront in their communities.

If we take the attitude that we are somehow trying to denigrate our quality of life—I know that the chamber has at the centre of its values a high quality of life in Thunder Bay.

The world is with us late in Sault,
Getting and spending we lay waste our powers,
Little we see in nature that is ours.

That is another poem and it was written when no one could buy anything on Sunday in Ontario.

We have always been concerned about those things, and all of us here are concerned about a high quality of life. Those who ask this committee to take a different view and consider the possibility of opening up the hours on Sunday ought not to be accused in a public forum of somehow reducing the quality of life of our citizens. I reject the comment and I do not think it is appropriate after the comments of the chamber.

The Acting Chair: Thank you, Mr Sorbara. I believe the chamber was about to make its own response to Mr Mills's comment. Please go ahead.

Ms Johnson: Yes, I was. I guess I take exception that we are not concerned about the quality of life, not only within our chamber of commerce, but certainly within our community of Thunder Bay. We are very concerned about that. Did we bring in that quotation to this table? No, we did not, sir. But I would say we are looking at what we feel is best for our community.

Our community has changed in the last few years and in fact our survey has changed, as our president has already noted to you. There is a change in our environment, not only in Thunder Bay but in Ontario. If you would check with what your provincial government looked like approximately two years ago, you would see that Sunday shopping was a non-issue. People did not even want to discuss it. It has circled completely. In fact people, not only within our chamber of commerce but in the province, have said they want Sunday shopping. I think that is what you have to look at, what the people in this community want. It is a changed environment. We are very concerned about what is happening in our province and it is not only on this issue, but on everything. I would like you to be aware of that. Thank you very much, Mr Sorbara.

The Acting Chair: Thank you for your presentation this afternoon.

The committee will be meeting outside the door right after we adjourn. We will be taking off right away. I would like to thank the city of Thunder Bay for hosting this today. We will adjourn now until 10 am, Wednesday, August 7, at the Sudbury Senator Hotel.

The committee adjourned at 1710.

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Journal des débats (Hansard)

Le mercredi 7 août 1991



Standing committee on administration of justice

Retail Business Establishments
Statute Law Amendment Act, 1991

Comité permanent de l'administration de la justice

Loi de 1991 modifiant des lois
en ce qui concerne
les établissements de commerce
de détail

Chair: Drummond White
Clerk: Lisa Freedman

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday 7 August 1991

The committee met at 1006 in the Senator Hotel, Sudbury.

RETAIL BUSINESS ESTABLISHMENTS STATUTE LAW AMENDMENT ACT, 1991

LOI DE 1991 MODIFIANT DES LOIS EN CE QUI CONCERNE LES ÉTABLISSEMENTS DE COMMERCE DE DÉTAIL

Resuming consideration of Bill 115, An Act to amend the Retail Business Holidays Act and the Employment Standards Act in respect of the opening of retail business establishments and employment in them.

Reprise de l'étude du projet de loi 115, Loi modifiant la Loi sur les jours fériés dans le commerce de détail et la Loi sur les normes d'emploi en ce qui concerne l'ouverture des établissements de commerce de détail et l'emploi dans ces établissements.

The Acting Chair (Mr Cooper): I would like to call this meeting of the standing committee on administration of justice to order. This is a tripartite committee and we are studying Bill 115, the Retail Business Establishments Statute Law Amendment Act.

Mr Sorbara: What about introducing the new members of this committee? The makeup seems to change every day.

The Acting Chair: We have Tony Martin, the member for Sault Ste Marie subbing in today, and Sharon Murdock, the member for Sudbury will be a guest on the committee.

Mr Sorbara: Is that coincidental?

The Acting Chair: Obviously.

Mr Sorbara: Do we advise our new members of what we have been hearing over the past few days, that people are more or less anxious for the government to get out of the business of regulating Sunday shopping so they can get on with their lives?

Mr Morrow: It has not been summed up yet.

SUDBURY AND DISTRICT LABOUR COUNCIL UNITED FOOD AND COMMERCIAL WORKERS, LOCALS 175/633

The Acting Chair: We will start off by calling our first presenter, the Sudbury and District Labour Council. Thank you for coming this morning. You will be given half an hour for your presentation, and you can use the full half-hour for your presentation or you can submit a shorter brief and allow time for questions and comments from each of the caucuses. That time will be divided equally among all three caucuses. Could you please identify yourself and then proceed.

Mr Morin: I am Don Morin. I am from the United Food and Commercial Workers, and next to me is Barb Young from the labour council. Because of time and holidays, the labour council has everybody on holidays. We are

going to combine our briefs and put one together and we are the next on the list, UFCW. I have to say to the committee it is your choice. We can take the half-hour for each or half-hour total, whatever. It is in the committee's hands.

The Acting Chair: It would be more convenient for both of you to submit your briefs and then we will do the questions and answers.

Mr Morin: We only have the one brief.

The Acting Chair: Well, each do your own.

Ms Young: Mr Chairman, Locals 175/633 of the United Food and Commercial Workers International Union would like to thank the standing committee on administration of justice for the opportunity of appearing before it in order to put forth the views of our members, both provincially and in the Sudbury area, as well as reinforcing the position of the UFCW Canada as put forth on July 29, 1991.

Local 175 of the UFCW is the largest local union of any union in Canada, and with Local 633 has a combined membership of over 45,000 in the province of Ontario, mainly employed in the retail and support industries. As such, our members have a greater stake than most in the Sunday shopping/working issues facing the Ontario government.

The Ontario Federation of Labour, with which we are affiliated, supports the position which our locals and the UFCW Canada are putting forth since many other Ontario workers are directly and indirectly affected by the Sunday shopping/working issue.

Locals 175/633 and the labour movement in general appreciate the government's efforts in bringing forth legislation aimed at enshrining a common pause day in Ontario and providing needed restrictions both on Sunday shopping and Sunday working. While this proposed legislation is an important step forward, Locals 175/633 have five main concerns with the proposed amendments to the Retail Business Holidays Act. These concerns are related to (1) the intent of the RBHA; (2) the municipal option; (3) the drug store openings on Sundays; (4) enforcement of the legislation; (5) the definition of a retail business.

In this presentation we will present our members' views on each of these concerns. We will also address three other issues related to that of Sunday shopping/working.

1. The intent of the Retail Business Holidays Act. The present act: The present act fails to recognize the right of workers to a common pause day.

The proposed amendment: The proposed legislation recognizes the need for and the importance of a common pause day in part I of the Retail Business Holidays Act. The wording in the proposed amendment to subsection 4(2), such as "shall take into account" and "should be maintained" is, however, too general. This achieves only a watered-down version of what is required.

Recommendation: In order to ensure that the intent of the Retail Business Holidays Act is consistently followed, the amendment to subsection 4(2) regarding municipal powers should read:

"4(2) The council, in passing a bylaw under subsection (1), must maintain the principle that holidays are to remain as a common pause day; that is, to ensure that they remain: "days on which most businesses are not open; and "days on which most persons do not have to work."

2. The municipal option. The present act: The legislation implemented by the previous Liberal government provides that municipalities have full control over the decision to allow stores to open on Sundays or other holidays. There are no regulations, no criteria and no principles to guide municipalities in making the decisions. The will of the municipal councils simply predominates. The provincial government has no way of stopping wide-open Sunday shopping/working. One only has to look at the high rate of applications for exemption that are presently in the hands of the municipalities for proof of the extent of this problem.

The proposed amendment: As proposed, the decision-making process would remain in the hands of the municipalities. In addition, the regulations and criteria of the tourist exemption as set out in sections 1 and 2 and subsections 4(1) of the new amendments are so broad as to effectively restrict no one. Under the proposed rules, decisions of the municipalities would be final and the province, including the Solicitor General, would not be able to challenge this decision. In the view of Locals 175/633, this proposal would lead to wide-open Sunday shopping/working and as a result would fail to enshrine the common pause day as intended.

Recommendations: The recreational, entertainment and the cultural pursuits of tourists as well as the goal of enshrining the common pause day can both be accommodated by the law. To accomplish this, Locals 175/633 recommend that the proposed amendments be changed to reflect the following:

i. The new subsection 4(1) to read:

"4(1) Notwithstanding section 2 and subject to the provisions of clauses 4(1)(a) and (b) below, the council of a municipality may by bylaw permit retail business establishments in the municipality to be open on holidays where it is essential for the maintenance or development of a tourist industry and where it is essential to meet the educational, cultural, leisure and recreational needs of the tourist; and

"(a) only retail business establishments in which the total area used for serving the public or for selling or displaying to the public in the establishment is less than 4,000 square feet; and

"(b) the number of persons engaged in the service of the public in the establishment does not at any time exceed four."

ii. The government must establish a committee of the affected stakeholders that will prepare and recommend a new set of viable tourist criteria regulations. The stakeholders should include the representatives of the affected groups, such as retailers, unions and government.

iii. According to the amendment, the tourist criteria as proposed would not form part of the legislation. However, we recommend that the new set of viable regulations established

by the stakeholders mentioned above be integrated into the legislation.

iv. Subsection 4(8) must be modified to state,

"4(8) The council's decision may be appealed by any interested party to the tourist exemption board."

3. The drugstore openings on Sundays. The present act: The drugstore with a square footage of 7,500 or less may open on a holiday under the present act. Currently, these drugstores must dispense drugs, and the principal business must be the sale of goods of a pharmaceutical or therapeutic nature for hygienic or cosmetic purposes. No other goods are allowed for sale with the exception of sundries. Unfortunately, there is a widespread problem with these drugstores selling soft drinks, potato chips, candies and other foodstuffs which are considered sundries. In many cases, up to 80% of sales in these stores consist of products of a non-pharmaceutical nature. This occurs in spite of the ample opportunity to purchase such non-pharmaceutical products provided through the numerous convenience stores that are allowed to open on Sunday. To compound the problem, the absence of a restriction on the number of employees working on a Sunday or holiday allows some drugstores to dedicate extra help for the benefit of sales of non-pharmaceutical products.

The proposed amendment: In its proposed legislation, the government has not addressed the problem of large drugstores opening on Sundays. The proposed legislation also fails to put a restriction on the number of employees allowed to work on a holiday.

Recommendation: Locals 175/633 recommend that clauses 3(2)(c) and (d) of the present act be amended to read as follows:

"3(2)(c) The total area used for serving the public or for selling or displaying to the public in the establishment is less than 2,400 square feet;

"3(2)(d) The number of persons engaged in the service of the public in the establishment does not at any time exceed four, including the pharmacist, who must be present in the establishment during business hours."

Currently there are many drugstores with a square footage of 2,400 or less in many communities in the province of Ontario that provide ample opportunity for this population to receive needed medication or other prescription products, particularly in cases of emergency. Additional prescriptions and other medication can be obtained at various hospitals and clinics with on-site pharmacies open on Sundays.

The limitation of four persons, including the pharmacist, to be engaged in the service of the public, would allow the prescriptions or other medication needs of the people of Ontario to be fully met. Our recommendation would require pharmacists to be present during business hours in the establishment in order to attend to the prescription and other medication needs of the people, which addresses the real reason for drugstores remaining open on Sundays.

4. Enforcement of the legislation. The present act: Currently, the act provides for maximum fines of \$50,000 upon conviction for illegal Sunday openings. Also, municipalities or the Attorney General of Ontario can apply to the Supreme Court of Ontario for an injunction to close an establishment that is opening illegally. However, there are

no minimum fines. In many cases, the courts are imposing fines of \$300 upon conviction, hardly a deterrent. Under the present act, only two parties, the Attorney General of Ontario and the municipality, are allowed to file for an injunction. Unfortunately these two parties are, in many cases, not aware of violations or are not interested in filing for an injunction.

The proposed amendment: The government has proposed minimum fines of \$500 for the first offence and \$2,000 for the second offence. We fully support the principle of the minimum fine. However, the proposed fines are far too low. We believe that the amount of the proposed minimum fines will not deter retailers from opening on Sundays. In fact, a retailer's profit for one day could easily surpass the amount of the fine. Under the proposed legislation, there would be no change with regard to who can apply for an injunction. As a result, we foresee the same problems of little enforcement and no action continuing.

Recommendation: In order to address problems related to the fine being an insufficient deterrent, and the lack of enforcement, Locals 175/633 recommend the following:

i. the proposed amendment of the minimum penalty, subsection 3(1), be modified to include, "For first offences, the minimum fine for conviction be \$10,000, and for subsequent offences, the minimum fine for conviction be \$20,000";

ii. subsection 8(1) be amended to read, "Upon the application to the Supreme Court by any affected or interested party, the court may order that a retail business establishment close on a holiday to ensure compliance with this act or regulation under this act."

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At present, legislation similar to Locals 175/633's proposals exist in the province of Quebec, allowing affected parties to apply for an injunction. This legislation has proved to be both workable and effective.

As noted, in the UFCW Canada brief, the cost of enforcement is considerable in the Metro Toronto area, and we have no reason to believe that justice is cheaper in the north, which reinforces the need for reasonable and effective deterrents.

5. The definition of a retail business: Under the existing act the definition of a retail business does not include club warehouses, such as price clubs. The flaw allows for giant stores, in the guise of membership clubs, to be open on Sunday.

The proposed amendment: The government has not addressed the existing problem relating to the definition of a retail business. As a result, club warehouses will continue to operate on Sunday.

Recommendation: To prevent the circumvention of the act by establishments such as price clubs, clauses 1(1)(b),(c) and (d) of the present act should be amended to reflect the following:

"Retail business' means the selling of goods or services by retail to any member of the public, including a member of a club or co-operative of any other group of consumers;

"Retail business establishment' means the premises where a retail business is carried on. Any space or stall in markets, particularly in covered markets and 'flea markets,' shall be considered to be a retail business;

"Principal business' means that portion of the business which accounts for 80% of the retail business establishment's gross sales."

Our general concerns: Sunday shopping/working and cross-border shopping: The members of Locals 175/633 in this area fully support and endorse the position and the reasons put forth by UFCW Canada.

Sunday shopping/working and tourism: According to the proposed amendments to the Retail Business Holidays Act, the tourist exemption as proposed would be granted by the municipality only where it is essential for the maintenance or development of tourism. As previously stated, the proposed criteria for the tourist exemption are far too broad and too general and would provide too much leeway for municipalities to operate as the sole decision-makers. As a result, the exemption as proposed would lead to wide-open Sunday shopping/working.

The geography of the north dictates that ease of Sunday opening for tourism purposes could lead to one centre declaring itself a tourist area in order to draw the residents of another centre three or four hours away to come on Sunday to spend dollars badly needed in the drawn-upon centre.

Clearly, the government has not achieved a balance between the establishment of the principle of a common pause day and the development of tourism. However, by accepting our recommendations, Locals 175/633 believe that the recreational, entertainment and cultural needs of the tourists can be met without opting for wide-open Sunday shopping/working and without one centre of commerce preying upon its neighbours.

Sunday shopping/working and the family: The amendments proposed by the government would lead to wide-open shopping/working affecting a significant number of workers and their families in Ontario. Locals 175/633 believe that these workers and their families have a right to a common pause day.

Retail workers and their families are directly affected by Sunday shopping/working; that is more than two million people in Ontario. In addition, police, transportation, public workers, maintenance staff, delivery workers and other support services for retailing, which represent another 250,000 workers and their families, would also be affected by wide-open shopping/working on Sundays. Ontario needs a common pause day for workers and for their families.

In conclusion, the goal of Locals 175/633 has always been the enshrinement of a common pause day for the retail workers, for workers in related sectors and for their families. The amendments to the Retail Business Holidays Act proposed by the Ontario government, while representing a move in the right direction, would fail to ensure that this goal is met and would serve to open the door to a further erosion of the common pause day.

We firmly believe that by accepting our recommendations, the maintenance of family values and the establishment of a common pause day can be realized. Locals 175/633 are prepared to work with the government of Ontario and other groups to develop and implement lasting, workable solutions which serve to establish a common pause day and at the same time strengthen the economy of this province and benefit all the people of Ontario.

The Acting Chair: Before we proceed with the questioning, coffee and juice are available in the far corner for anybody who wants them. We will allow about 10 minutes. We will be really flexible for each caucus. We will start with Mr Sorbara.

Mr Sorbara: Can I begin by asking you to explain to the committee in your own words why the UFCW would like all or most of the stores to be closed on Sunday?

Mr Morin: We do not think they should be open. We do not need them open, and why should they be open and shopping—people have six days now. The people who work in the stores have given up Saturday already. They work until midnight. Some work 24 hours a day.

Mr Sorbara: No, nobody works 24 hours a day.

Mr Morin: I am sorry. The stores are open 24 hours a day.

Mr Sorbara: So the stores are open 24 hours a day. It is against the Employment Standards Act and any collective agreement I have ever seen to allow people to work 24 hours a day.

Mr Morin: But people are working from 8 in the morning until 5, 5 to midnight, midnight to 8.

Mr Sorbara: Sure; shift work.

Mr Morin: It is a three-shift thing, and it is not a five-day shift, it is a six-day.

Mr Sorbara: And sometimes seven.

Mr Morin: No, Sundays are now closed.

Mr Sorbara: But can you explain to me why you want the stores to stay closed on Sunday?

Mr Morin: It is the only time the retail people of Ontario have with their families. It is the only time we can plan to say that we have time with the family, and if the stores are open we cannot possibly be with our families.

Mr Sorbara: But hold on a second. The previous government in its law and this government in its bill have given to every single retail worker the absolute, unequivocal, clear and precise right to have a common pause day on Sunday. They can refuse to work, without explanation or without reason. All they need to do, if they are assigned to Sunday work, is give 48 hours' notice and they can give notice for ever that they do not want to work on Sunday. Every retail worker will have that right. So within that context, why do you want the stores to stay closed?

Mr Morin: Mr Sorbara, just for your information, I am on staff and Barb and I both come from the retail section. I was a butcher for 25 years and Barb is still in the grocery business as a cashier. Until three years ago, I worked in the retail sector.

And you are right, we do have the right under the law, except when you get into the store situation, you walk up to the store manager of the company and say, "I'm sorry, but under my guidelines I do not want to work Sundays." "Oh, that's fine. You don't have to work." So you get your schedule the next week, and instead of working 8 o'clock in the morning or 9 o'clock in the morning to 2, all of a sudden you are scheduled 6:15 to 10:15 Saturday nights—only Saturdays. You never get any more Monday to Friday

shifts. You go up and say, "I'm sorry, Mr Manager, the last five weeks I've had 24 hours a week and this week I'm down to 16." He says: "Well, I'm sorry. Sunday shopping is so important to us that we need the hours on Sunday, and if you're not prepared to work Sunday, I'm sorry, we don't have any more hours for you."

Mr Sorbara: I cannot accept that, and the reason why—

Mr Morin: I work in the business and I can accept it.

Mr Sorbara: I appreciate that, but I also work in the business. I worked in the business as Minister of Labour and I have been an MPP, and I agree with you that there will be one or two instances per community where that might happen, but as a Minister of Labour to whom those complaints came and as an MPP to whom those complaints came, they were so few and far between as to be non-existent. The evidence we have had before this committee from most small businesses and large businesses is that they do not have any trouble at all finding a sufficiently large workforce to run their stores on Sunday if they choose to be open.

I like the notion of a common pause day for everyone, if we could get it. If we can only provide it to retail workers, okay, let's only provide it to retail workers. We are giving retail workers the absolute right to say no, and any juggling around or screwing around with the schedule and the full force of the law comes down on the heads of the employers. You are a trade union person and you know that you can enforce that.

So given all of that, why do you want the stores to stay closed, particularly when 75% of the people in the province would prefer for the government just to mind its own business and let them shop if they want to shop or not shop if they do not want to shop or do whatever they want on Sunday?

1030

Interjection: Or work if they want to.

Mr Sorbara: Or work if they want to work. I mean, hundreds and hundreds and thousands of people see the opportunity to work part-time on Sunday as something that will do them good. The spokespeople for the trade union movement and labour say no, they are not going to be able to work on Sunday. It seems to me that if we implement your thinking, the next thing we would do is to say to Inco, "You can only run your facilities for 40 hours a week because that's the only way we can guarantee that people will only have to work 40 hours a week." Inco workers take up Sunday work and they do it voluntarily and they do it through their collective agreement. Why can we not give the same freedom to the retail sector, particularly with the strong protection that we are giving to any retail worker who does not want to work, the right to book off? Why do we not give that same protection to the steel-worker at Inco?

Mr Morin: The first thing I want to say is that we are here talking about the Retail Business Holidays Act, we are not talking about International Nickel, which is a seven-day operation.

Mr Sorbara: But International Nickel is part of the district labour council.

Mr Morin: And the labour council is here and the president of the labour council is a member of 6500. He totally agrees with our presentation. I am sorry, but Inco works a seven-day week. They have two days. It is seven days a week for five days, but they have two consecutive days off every week. They either get Monday-Tuesday, Wednesday-Thursday, Thursday-Friday, Saturday-Sunday, and it is a rotating shift. My father worked for Inco for 40 years before his pension. They have two consecutive days off. The retail business people get Monday off, they might get a Wednesday off, they might get a Thursday off, they might get a Saturday off. They have one day off together, and Sunday.

Mr Sorbara: No, no, the bill that these folks are proposing says that every retail worker shall have at least 36 consecutive hours of time off. Now, I would prefer if they would bring in a bill that guaranteed retail workers 36 hours of work a week. That would be better, but in their wisdom, they are saying 36 hours per week, consecutive hours, off. Is that not a good idea?

Mr Morin: That is a day and a half at best. But they get Monday off and they have to work Tuesday afternoon at 5 o'clock, and that would be legal under our contract.

Mr Sorbara: Do you negotiate premium time for Sunday work for the stores that are opened?

Mr Morin: We sure do, in some of them.

Mr Sorbara: Is that not a reasonable thing to do?

Mr Morin: It is reasonable in some ways if they do open. But at the same time, our people—

Mr Sorbara: But even then you think they should close?

Mr Morin: Our people do not want to work, and when you go in to get a job in the retail stores, what is the first thing the store manager says when you come down? "I'm part-time. I'm going to school and I need a job." He says, "Well, we have openings in this store, but before we hire you, are you prepared to work Sunday?" If you say yes, you get the job. If you say no, you do not get it.

Mr Sorbara: But it does not matter any more, because if you say, "Yes, I'm prepared to work on Sunday," and you are hired on that basis, notwithstanding that, their bill says if you give them notice 48 hours before the start of your shift, you do not have to work on Sunday and the employer cannot jig around your hours, take any disciplinary action or do anything else.

Mr Morin: But I am sorry, Mr Sorbara, he can, because in every contract—

Mr Sorbara: But he cannot. It is against the law.

Mr Morin: Let me finish, please. There is a probationary period in there that says for the first 45 days the company has the right to hire and fire and we cannot grieve it as a union. All the manager has to do—

Mr Sorbara: You do not have to grieve it.

Mr Morin: We cannot grieve it and the manager just has to walk up and say: "I'm sorry, I'm not satisfied with your work. You're gone."

Mr Sorbara: I am telling you, my friend, under their legislation—

Mr Morin: Under their legislation they could not do anything. It is a probationary period.

Mr Sorbara: Under their legislation, even if you have worked one week, you can go to an employment standards officer and, if you are fired, get reinstated with full pay.

Mr Morin: For what?

Mr Sorbara: Within that one-week period, if you are dismissed because you refused to do Sunday work. That is the bill, and that is what we all support.

Mr Morin: But he has not been fired for not working Sunday. The manager has walked up and said to him: "I'm sorry, you've worked three days in my store. I don't like your work. We don't need your services any longer." What rights does he have?

Mr Sorbara: Can I ask you another question? If you had negotiated a collective agreement and 75% of the people in the bargaining unit supported the terms of the collective agreement, you would feel constrained to put that agreement into place, would you not, to accept that agreement?

Mr Morin: Yes.

Mr Sorbara: In Ontario, 75% of the people want the freedom to shop or not to shop, and that 75% includes retail workers, that 75% includes union people and professional people and non-professional people; people from every walk of life would prefer not that all the stores be open but that the stores have the freedom to be open if they choose. Why should we not be implementing in a democratic way the wish of the people in that regard, particularly when the one group of people who are supposed to be protected and given a common pause day—by the way, this is not a common pause day for steelworkers, this is not a common pause day for real estate agents, this is not a common pause day for media people, this is not a common pause day for the people that have to clean the streets. This is a common pause in this bill only for retail workers, and they have an absolute guarantee of that, and in the terms of the collective agreement 75% of the people say, "Give retail workers an absolute right to a common pause day but let the rest of us shop if we want." Why should we reject that collective agreement?

Mr Morin: First of all, you said 75% of the people. They were asked one question: "Do you prefer to shop on Sunday?" If the question had been put, "Do you prefer to work on Sunday?"—

Mr Sorbara: No, no, the question is—

Mr Morin: I am sorry; I never cut you off. I would like to finish my statement first. If the question had been put to the people, "Do you wish to work on Sunday, or do you wish to shop on Sunday?" then we would get the answer and your 75% poll would go down mighty fast.

Mr Sorbara: Let me just advise you that most of the people in the province, in fact every group in the province

except for retail workers, are eligible for Sunday work. If they asked me whether I would prefer not to work on Sunday, of course I would prefer to work two or three days a week, but sometimes I have to work on Sunday. I have not asked the government to provide me with the same rights retail workers have. I acknowledge that retail workers should have that. But what I am saying to you is, given that they are guaranteed under this bill the common pause day, why should the rest of the people have to live in a world where all of the stores are closed anyway?

It was the case. The NDP, before it came to power, used to say that the only way to give retail workers a common pause day was to close all the stores. I have read so many Bob Mackenzie speeches on that theme, I get sick to my stomach. But even they, now that they have come to power, say we do not need to close all the stores. All we need to do is protect the workers with an absolute right.

Given that, I ask you once again, why should we be insisting that all the stores close?

Mr Morin: It is the only way to protect the retail workers.

Mr Sorbara: Oh, goodness.

Mr Morin: We do not need in Ontario an American economy.

Mr Sorbara: This is not an American economy.

Mr Morin: We have already proved it in the States. They are open 24 hours, seven days a week, and there is no more money, there is no more business, and people's lives are hell. In Ontario we have a good thing going. Why can we not protect people? The people of Ontario have to be like Americans and shop on Sunday, and I do not think that is true.

Mr Sorbara: My friend, this has nothing to do with American lifestyle.

Mr Daigeler: Mr Sorbara, I think, must have had a good night's rest. He is all worked up, certainly very keen to put forward some very important views.

My question is less direct. I would like to ask you what happened in that interim period, when the Liberal legislation was struck down and there was open Sunday shopping, what was the situation here in Sudbury and in the area? What was your experience?

Mr Morin: The majors all opened up. All the major chains opened up in Sudbury. As a result of that, there was open Sunday and they did business. I would agree with that. But in the long run, what the stores did was, "We're open on Sunday and we have to pay double time, so you have to cut your hours now," so we had fewer people working, not more.

Everybody is standing there and shaking their heads. I am in the stores; I am the business rep. What is coming through from the great big bosses up top in Toronto? "You're using 70 hours on Sunday. That's costing us 140. Cut 70 more hours on Monday to Friday." Those exact words came out of the big business. Those are their exact words: we paid double time. We heard it and we heard it and we heard it. We lost jobs. We would lose full-time jobs and we would have more part-time.

Mr Daigeler: If that is so, that would be an important witness, because we have not heard that before. If you have anything that verifies this, if you can provide that to us it would be very useful.

Mr Morin: There is no way of proving it. You are sitting in the store and you hear the store manager come down: "Cut the hours. I just got a call from head office." Bang, that is it. Sunday shopping, we have to cut our hours. We used 100 hours; we cut another 100 because we had to pay double time.

1040

Mr Jackson: Just on that point, are you saying that you hear about this but you do not ever record it, so you forget where this occurred? Can you not tell this committee companies that have done this? I guess that was what Mr Daigeler was saying.

Mr Morin: I can say it very clearly. It happened in Sault Ste Marie, it happened in Sudbury, it happened in North Bay, Parry Sound.

Mr Jackson: Those are the cities. What are the companies that did this?

Mr Morin: A & P, Miracle Mart, that I know of. I service them. I cannot say the rest.

Mr Jackson: And what they were doing was actually adjusting the total—

Mr Morin: Adjusting the total. In other words, if they used 70 hours on a Sunday—I am talking A & P; they had to pay double time—they as much as told their managers, "If you use 70 hours on Sunday that means it was 140. Cut that many hours off your schedule."

Mr Jackson: Let me ask you a couple of quick questions. First, your brief, whether I agree with it or not, is generally presented well because it is a very easy brief to read, and it is appreciated when you lay out very clearly what your recommendations are. We do not always get that. I want to let you know, for whatever it is worth, it is a well-presented brief.

On your recommendations about the common pause day, it is interesting that you suggest trying to define more what a pause day is. As you also say this is a common pause day for retail workers, why are you not asking us to make this a bill for retail workers and defining a retail worker so that the exemption flows from the worker and not from describing the activities of a pause day—the non-activities of a pause day, to be exact?

Mr Morin: We mostly agree with what the bill says. We just want to fine-tune the bill so it protects the workers in the best possible way.

Mr Jackson: I am hearing from you, and it is in print, that the protection is not there. Under examination and questioning you still insist that it will not be there.

In my seven years as a legislator, when I have been faced with this kind of difficulty, it generally flows from where we are causing our definition. I find it would be a lot easier to define a retail worker for their personal protection. This is a bill for retail workers. I am having no trouble with that. But the fact is that where we are getting into difficulty is trying to define a pause day and the pause day

activities. Why are you not looking at more of a definition of a retail worker to define those who are clearly protected?

Mr Morin: You could go both ways. You could define what a retail worker is or you could define what the retail employees act is. We went the other way. We tried to define what the act would mean and what a retail business would be—which is a retail person. We just went the opposite way. We tried to define what a retail business would be so that under the act what would be open and what would be closed. I think your question and mine are the same thing. We just went to what a retail business would be. We want to define that very clearly in the act.

Mr Jackson: The second area: You fundamentally disapprove of both the Liberal and the NDP approach to a municipal option in terms of defining this. You feel there should be one strong piece of provincial legislation, period, end of sentence. Is that essentially your philosophical approach? Your brief says you do not support the municipal option.

Mr Morin: We do not support the municipal option if it is only the municipality that has the choice. We want some outside organization that can overturn it. What of the little town?

Mr Jackson: You want an appeal. Do not tip your hand completely; I know you want to turn it over. What you are saying is you want a fair appellant mechanism.

Mr Morin: That is right.

Mr Jackson: Would you consider supporting an amendment that would have an appeal to cabinet?

Mr Morin: That is one point, yes.

Mr Jackson: Since the new government has come on board, we have a whole bunch of these various boards and policing commissions and all that. I doubt we are going to get another one of those. And you certainly do not want to go to the Ontario Municipal Board, due to cost and the time it would take, especially since the activity would be allowed to proceed while the appellant mechanism is under way. I am just going to ask you directly, do you support an appeal to cabinet as a means of fair and arm's-length appeal? Because it is a municipal decision. It is not a provincial decision; it is a municipal decision.

Mr Morin: That is one option that would be open, I would think. There is a lot of talking on this bill, and as I said at the end of our brief in our conclusion, we are prepared to work.

Mr Jackson: There is not an appellant process in this bill now. The government has indicated on several occasions that although it is listening and it is listening well and it is listening carefully, there are not going to be any amendments. One of the areas they might consider amending might be an appeal to cabinet, because it is an amendment which is put right at their feet. Do you know what I am suggesting to you there?

Mr Morin: It would help, yes.

Mr Jackson: Now the cabinet is rejecting an appeal to cabinet. It is not a simple amendment that is arm's length, where they can say, "Somebody else didn't like it" or "We didn't consult with the chambers." They cannot slough it

off to somebody else. This is now the government of the day rejecting our amendment which says they can go to cabinet.

Mr Morin: I will be honest with you. I am not up on the fine points of the law in this bill, where the amendments would go. I am looking at what the workers want. When it comes to the fine points of amendments, as I keep saying, the people in our union, our top executive, are more than willing to sit down with the government, with the committees, and iron this out.

Mr Jackson: The municipal jurisdiction over commercial and tourist activities on reserves: Are you aware that all commercial activities on reserves in this province will be covered by municipalities and municipal jurisdiction?

Mr Morin: As I said, I have no idea about the fine points of the law.

Mr Jackson: It is not fine points of the law. It is what we are told that this bill says, that commercial activities for aboriginals in this province are going to be decided now by municipalities, with no appeal mechanism. I am offended by that. I asked the labour councils in Lakehead and Thunder Bay last night, and they were also quite concerned about this. I assume you have representation of some form for aboriginal activities, commercial activities, and their workers.

Mr Morin: Within the Sudbury region, we have no representation of aboriginals at all right now on the labour councils.

Mr Jackson: I am intrigued by your 4,000 square feet. If the retail activities at Science North were 4,000-square-feet-plus, would you expect it to be closed?

Mr Morin: I think you have a red herring. Science North is by no means a retail business.

Mr Jackson: I did not say that: the retail section. There are a lot of tourist attractions that can still stand alone without a retail section, but there are large and growing retail sections, whether it is food service or souvenirs or art galleries. There is a whole series of expansion and opportunity in commercial activities which are occurring as an adjunct and form part of large tourist activities. I was just wondering if you were looking at a more absolute rule here.

Mr Morin: I would have to go back and say the same thing. Science North is a red herring. It is a tourist area, it is well defined as a tourist area and I think it would be one of the fastest to get an exemption to be open on Sunday.

1050

The Acting Chair: Mr Mills, the parliamentary assistant to the Solicitor General, would like to make a clarification.

Mr Mills: Our legal adviser from the Solicitor General just wanted to clear up something that was a little unclear.

Mr Ceyssens: Just before we go on, I wanted to raise one particular point regarding whether the act would apply to retail businesses operating on Indian lands. The matter arose yesterday very informally in response to a question by the same member and I provided advice as follows.

There was one case, to my knowledge, which has addressed it. That case is a decision of the British Columbia Supreme Court and it is called *Regina v Duncan Super-*

markets Ltd. Again, I stress that is the only case I am aware of; there may be another case. But what that case decided is that, in the British Columbia version of the Sunday shopping legislation, that did apply to businesses operating on Indian land. Very simply, the way that came up is that a business operating on Indian land was charged and in its defence the business raised the issue that the province did not have the legislative mandate to address businesses operating on Indian reserves. That is it.

Because the BC Supreme Court ruled that way, that does not mean an Ontario court would do the same, if for no other reason than that the Ontario legislation is different. The BC Supreme Court is not binding on Ontario courts. I did offer that case because it offers guidance. It is not binding; it offers guidance. I do not think it could be fairly said that this act does or does not bind businesses operating on Indian lands. What can fairly be said is that in BC the court said that legislation did. If there are any questions flowing from that, I would be happy to answer them.

Mr Jackson: Paul was helpful yesterday when I raised this question with him and with the parliamentary assistant. I was advised very clearly that the presumption in this legislation is that they were included. If in fact we are now hearing today that, to be fair, it is neither in nor out, then clearly that is a problem for the committee and for the government to have the matter clarified. If in fact we are silent, as counsel will advise us, that simply says the courts will decide whether there can or cannot be jurisdiction. The Solicitor General of the day will be put in a dilemma, to go on to reservation lands and charge and then get into an expensive court process. I think we should at least acknowledge that this is a potentially serious matter that should be resolved. If anything, that is clearly part of the committee's mandate. It should not be a shame to the government that it has been overlooked, but it certainly should not accept the fact that it is neither in nor out, which is today's position.

The Acting Chair: I think it has been acknowledged. I think what we should do is proceed, in fairness to our presenters.

Mr Ceysens: Let me make one additional remark on that. It is an important matter and it should be addressed more than informally at this stage. It would be my respectful submission to the Chair that a formal legal opinion be drafted, for the reason that the committee should not be relying on, if you will, seat-of-the-pants advice at this stage. It is a matter of some importance. It should be in the manner of a formal opinion, and certainly that opinion can be arranged, but at this time it may be preferable to proceed in the absence of that opinion.

Mr Carr: I want to say how pleased I am to be in Sudbury today. Unfortunately, the last time I was here was in 1975 when we beat Sudbury, the year we went on to win the Memorial Cup in the eighth game, in two periods of sudden-death overtime. I hope people will not hold that against me this time around. I do not know if I have too many friends in Sudbury after that.

My question relates to the complaints that are heard with regard to people being forced to work. When he was

in, the Labour minister, Mr Mackenzie—as you know, a very strong advocate all his life of the labour movement—said that during the period of unrestricted Sunday shopping they had heard 15 complaints that people were forced to work. My question to you is if in fact there are any more in the system. We only heard about the 15 because of the time delays, by the time you go through the procedures. Do you see that increasing substantially over the next little while? If not, in light of the fact that you said you know of lots of cases, why would your union not have taken the opportunity to bring them to this body, as is really your mandate as part of the union? If you are saying that there have been a lot of abuses, why have we not seen it in the actual number of cases? It may be, as I think Mr Fletcher pointed out, that there might be some through the system. Do you see us all of a sudden having 300 that have come through or is it a case of people not reporting them? If they are not reporting them, why would your union not be reporting them?

Mr Morin: You are asking a kid who is between 14 and 16 years old, who is going in to get a job, to come to a union he has never heard of before. He is just hired. He does not really know he is in yet and he walks into the store to get himself a job. He is about this high off the floor. He is scared out of his boots. He is looking for his first job. He is in high school. The store manager or the personnel person in the store, whoever it is, gives him an application form and says: "Here. We are taking applications and we are hiring. But just making a point, if we do hire you, we are looking for people to work Sunday. We really do not need people for anything else." What do you think the kid is going to say? Is he going to say, "Oh, I'm sorry, but I don't believe in working Sundays. I can't do this," and walk out the door and not take the application? He will take the application and say: "I need the job. I'm going to school. I need the money. I'll work any hours you give me."

Mr Carr: What I am talking about is the people who were already hired and, as a result of that, then were forced to work. I guess my feeling is this is a union. Would that scare a person? First of all, he would not be 14, because he could not work.

Mr Morin: Yes, he could.

Mr Carr: He would have to be of legal age. I say the problem would be the union's position should be to go up to that individual and say: "You're very new. This is what your union does for you. These are some of the safeguards. Here are some the things we can do and here are some of the circumstances where we can help you out." If people are scared to come to the union, you have obviously not done a very good communication job. The first thing you should do is clearly communicate to that individual in your union what your union is all about. I admit some people might not know, but certainly that would be the first thing you would do, is say: "This is what we can do for you. We're here to protect you. This is how we can protect you." It would seem either (1) that has not happened or (2) there is not the number of claims of people being forced to work you have made here today.

Mr Morin: I did not say they were forced to work. I said they were asked when they were hired if they could work Sundays. Who would refuse? The same thing with part-time, all right? They got their part-time workers. They have been there for a year. They are getting 16 hours a week at such and such a rate and, all of sudden, we are open Sunday and because there is business on Sunday and, as I just said, the cutbacks, the manager says: "I'm sorry. You don't want to work Sunday, but this week we only have eight hours for you because all these other hours are put on Sunday." What is the part-time person going to say? "Yes, I'll work Sunday." They need the money. It is no choice. These people, some of them, are going to university. Some are going to high school. Some are from broken homes. They have no choice but to work Sunday. It is not a choice of not working. It is a choice of, "Do I want the money or don't I want the money?" They would get the same hours from Monday to Friday if the stores were closed. This is forcing them into working Sundays, and just about every Sunday, to get them hours.

1100

Mr Fletcher: Thank you for your presentation. I am very pleased to see you here today. As with Mr Carr, it is nice to be in Sudbury again.

Let me start off by going on what Mr Sorbara said. It is too bad that he is not here to hear this, because when he was the Minister of Labour one of his own colleagues, a person who stood beside him while he was the Minister of Labour—it was Mr Rick Ferraro, who was a Liberal at the time in the government—publicly stated: "Employees are jeopardizing their jobs by refusing to work. An employer will eventually find someone who is willing to work on Sundays." That is with the Liberal legislation that was there.

As you said, it was flawed then and it is still a flawed piece of legislation. The amendments we are trying to get through are hopefully strengthening the employee protection. As we promised during the election, the New Democrats are committed to a common pause day for workers in the retail sector. We campaigned on that and we are delivering on that promise. That is what we said.

As for the 75% who wish to shop, you really brought this around when you said that if we change the question to how many people want to work on Sunday, it goes around. The stats are saying about 70% are saying, "No, I don't want to work." I agree with you on that part.

As for Mr Jackson saying, "Who is going to do anything like adjust your hours?" if you go to what Loblaw's Supermarkets said in 1988—and Mr Jackson should have known this—Loblaw's stated, "If Sunday shopping comes in, the work schedules will simply be adjusted for existing employees to compensate for the extra day," again, exactly what you said was happening.

As for 14-year-olds working in supermarkets, they do, and they do it quite often. That is another situation.

Let me get to some of the questions I do have. We have heard from different different people in different areas that Sunday shopping is going to boost the economy. Is that your finding? Do you think that is what is going to happen with Sunday shopping?

Mr Morin: Sunday shopping cannot boost the economy. There is only so much money out there. What do you do? All of a sudden all this money comes into Ontario just for Sunday shopping? There is no such thing. You get the same money from Monday to Friday, Monday to Saturday, as you get from Monday to Sunday. If there is no more money, it is just longer hours, spread-out hours, worse service in the stores—and I want to put that because there are less people around to work—and there is no more money into the economy.

Mr Fletcher: As I was saying before, with this piece of legislation what we are attempting to do is not only protect the person working in the store—that is a priority with us—we also have a commitment to tourism in Ontario, and that is a commitment with us. I know it is a hard balance to strike. We are trying to strike a balance, and that is something the Liberals and the Conservatives could never do.

Mr Jackson: You have pissed off everybody. You are doing a great job out there.

Mr Fletcher: Do you agree with the statement that Sunday shopping, if closed on Sundays, is going to have an effect on tourism?

Mr Morin: No, it is not. We would like to define what is tourist, but the bill will not hurt tourist business whatsoever.

Mr Fletcher: Again, as Mr Jackson is trying to say, there are no amendments to this. That is what this committee is for. It is to listen to what people are saying, especially working people, because they are the people who are affected the most, people who have to work on Sundays. We recognize that. We are listening to your amendments, what you are suggesting. We are also listening to what tourism people are saying and we are also listening to what the chambers are saying. There are going to be amendments. There will be changes. We cannot just sit around and have a piece of draft legislation and say that is what it is going to be. I think you recognize that, even though some members may not.

I have one more question. If there is no Sunday shopping, are we going to lose all these part-time jobs?

Mr Morin: No. I have to go back to the fact that I service this area. They hired people and they closed Sundays. The same people have in fact hired more since. There have been no part-time jobs lost because of Sunday shopping. We probably have more now.

Mr Fletcher: There is one more statement I must make. We do have a new tourist area. It is called Mulroneyville and it is in Toronto. If you want to see what Conservative economic policy has done to the people of this province, you can go to Toronto any time and take a look at the broken hearts there.

Mr Carr: And pick up your NDP memberships. They are selling them.

Mr Morrow: The brief you gave us was very precise and very good. I want to thank you very much for that. I am also hoping that you can help us clear up something Mr Carr brought up. As chief steward for my local, I know a lot of things we handled on the shop floor would not have gotten to the Minister of Labour. For the Minister of

Labour to hear this—there are 15 complaints. In my process that would mean that there were a hell of a lot more complaints in the stores and on the shop floors. Is that not true?

Mr Morin: True enough. What you get in government is the minority. The complaints are general out there, but can you carry to fruition every complaint? You cannot bring everything to the government. You cannot bring everything down.

Mr Jackson: Even to an NDP Minister of Labour?

Mr Morin: They all cannot get there. It is just impossible. You think the union is God up here, that we hear everything. Some of these members, if we can get in to see them once a month, we are lucky.

Mr Morrow: That is exactly what I am saying.

Mr Morin: He thinks we are in there talking to them every day. We are not. We just cannot be there.

Mr Morrow: That is exactly what I am saying. You must understand that for the Minister of Labour to hear one complaint even, it has to be extreme out there.

Mr Morin: I service the north. I have 2,200 people under contract and I service from Thunder Bay to Bracebridge. It is just impossible to talk to them all.

Mr Morrow: We also understand that 57% of the general public wants Sunday shopping, but we also know, on the other side of that, that over 70% of the people do not want to work on Sunday. Does that concur with your membership?

Mr Morin: That concurs, yes.

Mr Morrow: Or is that higher actually?

Mr Morin: It is even higher. Our people really do not want to work.

Mr Morrow: If you do not mind a question about membership size, what is your membership size, combined total, for Sudbury?

Mr Morin: We have about 1,000 people on contract.

Ms S. Murdock: I want to thank you for coming today. I have a couple of questions actually on your brief from pages 3 and 4. On page 3, under the recommendation for retail business, you are suggesting a 4,000-square-foot allowance, and on page 4, under drugstores, you are suggesting a 2,400 square footage. I am just wondering if there is any particular reason for the difference and how you would justify that difference being allowed under law.

Mr Morin: We are saying that a drugstore is doing most of its business on Sunday. It is not drugs. It is not pharmaceuticals. It is stuff coming out of the big stores. Why should they be allowed to sell it on Sunday? Like Pampers—they sell Pampers, they sell pop, they sell chips, they sell everything that a major store sells, and what are they open for? They are open because they are a drugstore. They are doing no drug business whatsoever. If you take Herbie's here in Sudbury, you cannot find the drugstore in it. You just cannot find the drugstore in it. You can find the grocery store, but you cannot find the drugstore.

Ms S. Murdock: So you are saying that because they do not specialize in the selling of drugs or pharmaceutical

products, they should be reduced as compared to other retail businesses.

Mr Morin: That is right.

Ms S. Murdock: Okay. The second question I have is whether or not you are familiar with the tourist exemption criteria for the retail business under the regulations of the act.

Mr Morin: Not under regulations.

Ms S. Murdock: Because I think it would answer some of your concerns regarding that. Under this legislation, just so you know, a retail business operator, either as an individual or as a group, would apply to make an application to the municipal area. The municipal, unlike the previous legislation that we had, would have to follow certain criteria, first of all, in terms of a geographic region as to whether it conformed to tourism business, and that would be under six criteria. Then, and only then, if it was retail, they would have another four criteria to determine whether or not they were eligible to be open. If they did not meet those criteria, then they would not be allowed to be open, and from your presentation, I was not sure whether you understood that.

Mr Morin: I have not read the act totally, Sharon, no. I have not really done it all.

Ms S. Murdock: Just another clarification on the 36 consecutive hours of not having to work, my understanding was that if I was working on a Tuesday or a Sunday, whatever, till midnight, for instance, that I would not be allowed to be rescheduled to work for at least 36 hours, so that you could not work Saturday and then be given—

Mr Morin: Be back Monday.

Ms S. Murdock: Yes, you would have a full 36 hours from a Sunday shift before you would have to work again. I did not know whether that is what you were saying.

Mr Morin: I was just going with 36 hours, and he said to me 36 hours. I am not up on that part of the law, the technical part, but 36 hours, I would say, if you worked on a Sunday, they could work you Tuesday morning.

Ms S. Murdock: If you worked on a Sunday you would be guaranteed that you would get the Monday off.

Mr Morin: You would only get the Monday off, not Tuesday too.

Ms S. Murdock: No, you would not. But depending on when you got off on Sunday, right?

Mr Morin: With general Sunday shopping, it stops at about 4 o'clock at night—4 o'clock, maybe 5, maybe 6 at the latest.

Ms S. Murdock: In the evening, you mean.

Mr Morin: Yes, evening. Then you have already got 12 hours in on Sunday. So you take 24 hours on Monday, and Tuesday morning, you only get one day. That is what I was going by.

Ms S. Murdock: Okay. I thank you very much. I have no other questions.

The Acting Chair: Mr Mills has one point of clarification.

Mr Mills: I have a couple of points I would like to make. I thank you for your presentation. I want everyone here to understand the uniqueness of what we are doing

here. There has been some suggestion, perhaps, that our minds are already made up. That is not the case. We are here to listen. Never before, when a bill was put forward, were the regulations put to the public for their thoughts about the draft regulations. This is unique, and I think it sends a message to everybody, the openness of this government and the willingness of this government to listen. I want to impress upon everybody that that is a first, and it is very unique.

Second, I would just like to clear up a query here on page 5, when you talk about the price clubs, the definition of price clubs. It is my understanding that the Attorney General has indicated to me that they fall within the jurisdiction of the act in that they are members of the public who have purchased membership in a public enterprise and are therefore subject to all the regulations this act will provide.

Mr Jackson: Mr Chairman, just to correct the record, I would not want Mr Mills to mislead the public that this is some sort of a unique experience. I can assure you that this is not the first time in Ontario that draft regulations have been discussed by committees, whether they are public or at Queen's Park. I do not know where he is getting his wild-eyed briefing notes from. I understand why he reads them, but it does not—

Mr Daigeler: The 40 kilometres tourism—

Mr Jackson: No, no, that is another issue. I am simply indicating that, first of all, this is the fourth time that a committee has gone around this province on this issue. It is getting absurd. But to suggest that this is the first time in Ontario's history for draft regulations is misleading. That is a function of his briefing note, not his basic understanding

of the history of this province. So his briefing note is misleading, and I just wish to suggest that certainly that is not the case.

The Acting Chair: Okay. On behalf of the committee, I would like to thank you for taking time out this morning and giving us your presentation.

Mr Morin: Thank you.

Mr O'Connor: On a point of order, Mr Chair: Cam Jackson stated that he felt Mr Mills was misleading. I believe that is unparliamentary language. I thank him for bringing that up in the record, but the word "misleading," I think, is unparliamentary, and I would like to have that straightened.

Mr Jackson: It does not qualify in committee, first point you should learn. Second is, I clarified the point—
Interjection.

Mr Jackson: No, it can come up in committee. There are absolutely all sorts of efforts recorded—

The Acting Chair: Maybe in the future you could choose your words just a little more.

Mr Jackson: No, I indicated his briefing notes. He is parroting his response that has been prepared for him. I made that clear. He is not purposely misleading us. It is his briefing note which is misleading. I clarified that and I made that very clear. I do not think he intentionally would mislead this committee at all, but he is parroting his brief, and that is why he is with us.

Thanks for giving me the opportunity to clarify that.

The committee recessed at 1114.

AFTERNOON SITTING

The committee resumed at 1330.

SUDBURY AND DISTRICT
CHAMBER OF COMMERCE

The Acting Chair: I would like to call this meeting back to order now. Our first presenter this afternoon will be from the Sudbury and District Chamber of Commerce. Would you please come forward. Thank you for being here today. You will be allowed half an hour for your presentation. You can either use the full half-hour for your presentation or you can make a shorter submission and allow time for each caucus to offer some questions and comments. Could you please identify yourself for the record and then proceed.

Mrs Warwick: My name is Jeanne Warwick and I am president of the Sudbury and District Chamber of Commerce.

Mr Chairman and members of the committee, thank you for the opportunity to appear before you today to make this presentation. The Sudbury and District Chamber of Commerce, now in its 96th year of leading and serving the Sudbury area business community, represents over 1,000 businesses throughout the regional municipality of Sudbury or, if you wish, employers. Our membership encompasses both the multinational corporation and the small entrepreneur, but primarily we represent small business, approximately 30% of which are retailers.

I am going to divide the talk up into three areas, starting with tourism criteria. When Bill 115 was introduced earlier this summer, the Sudbury and District Chamber of Commerce was surprised and dismayed to learn that community chambers of commerce and boards of trade were given the responsibility of dealing with applications for exemption under the tourism criteria, paragraph 3(1)4 of the act. The tourism criteria read as follows,

"If there is a chamber of commerce, a convention and visitors' bureau or a similar organization serving the area being considered, a letter indicating that the organization, or if there is more than one of them, one of those organizations, supports the opening of the retail business establishments in that area on a holiday."

The problem with this concept is that chambers of commerce and boards of trade do not see their roles to be that of a regulatory body. There is no, and there is unlikely ever to be, 100% consensus among any city's business community on the question of Sunday shopping. A community chamber of commerce having to decide on local store openings would only foster disharmony among its membership and the business community as a whole.

The likelihood of some members withdrawing support of the privately financed organization, if they are not in agreement with the decision, is a strong possibility. This responsibility could mean the end of an organization that does so much good for the community. To force this unwanted responsibility on to chambers of commerce is totally ludicrous. Rather, this responsibility should remain in the hands of elected officials.

To our knowledge, there had been no consultation with any representative from the Ontario Chamber of Commerce or a community chamber of commerce prior to the implementation of this regulation, which is in direct contravention to the consultative process that has so often been espoused by the current government. As well, the legal implications that could stem from making these kinds of decisions at the local level are not a risk that we are prepared to accept.

Second, holiday shopping: It has long been the position of the Sudbury and District Chamber of Commerce that we are opposed to Sunday shopping. Surveys on this question conducted with our general membership in October 1989 and repeated in March 1991 showed that 70.5% and 56% respectively of the members who responded said no to Sunday shopping.

It is interesting to note that during both surveys the number of members in favour of Sunday shopping did not increase, 29.5% in 1989 and 30% in 1991; rather, approximately 14% of the 1991 respondents were in favour of Sunday hours for certain types of businesses—for example, pharmacies, tourist attractions and convenience stores; and/or during certain seasonal periods—for example, Christmas or the summer tourist season.

We feel strongly that there is an essential value in the preservation of a periodic day common to most of society when the maximum number of people are free from their employment requirements to spend time with their family and friends and pursue spiritual, recreational and other needs and goals.

It is our opinion that the legislation, as it existed prior to the June 1991 amendments, sufficiently provided for individual communities' freedom of choice relative to its particular needs and circumstances.

Last, the Employment Standards Act amendments: We believe employees are appropriately protected in current legislation, where they are permitted to refuse Sunday work that they consider unreasonable and refuse work that is in contravention of subsection 2(2) of the Retail Business Holidays Act, work on holidays. We are unaware of any circumstances where employees do not find this current legislation sufficient, and therefore believe that the proposed amendments to this legislation are both unnecessary and inappropriate.

Mr Daigeler: Thank you for coming and speaking to us with the views of your chamber of commerce. We are receiving a different message from your chamber than what we have been hearing so far from the other chambers. Yesterday in Thunder Bay the chamber was arguing for wide-open Sunday shopping, although they too felt the Liberal legislation was the right thing and that we should simply leave it the way it is: that a community that wants to open has the right to do so and a community that wants to stay closed can do that as well, on the basis of their elected representatives. I think that was the principle, much maligned, may I say, during the last election and before by the current government. But perhaps people

have now seen the wisdom of this particular solution. I think it respects the differences of opinion on this.

Even in your own chamber I do see a certain shift of opinion. Would you agree that there has been a shift of opinion in favour of not regulating it too much, but leaving it to the different communities and perhaps even to the different store owners to stay open? Have you seen that and observed it?

Mrs Warwick: Yes, and our statistics show that. We had a taste of Sunday shopping over the Christmas holidays and I think a lot of people really enjoyed it. First, what we are objecting to is not being consulted in the first place. Second, if we had been consulted, we are not regulatory bodies, nothing to do with—

Mr Daigeler: With your permission, I would like to come to that point in a second because I think it is a very important one, but just stay on the general question, because your presentation, as it were, is so different from the other business perspectives we have heard so far. The business representatives have been arguing very strongly that, especially in a time of recession, it is almost a necessity for them, a business necessity, a financial necessity, to stay open on Sunday in order to survive. I found that difficult to argue against. Have you heard that here in your community business owners are saying, “We need that extra day in order to make ends meet”?

Mrs Warwick: We represent small business. The small businesses find it so difficult working the long hours, and it is not financially viable for them to hire extra help on Sundays and they just get totally burned out. There are different opinions on Sunday shopping. What we are against is the legislation of who says what places can be open.

1340

Mr Daigeler: We have had especially some tourism-related businesses or even a Canadian Tire store from Kenora coming to us to say, “Because so many tourists are coming to Kenora, we have to serve them and we have to provide these open hours.” Is that not the experience in your community, even though you have quite a few tourists coming here as well?

Mrs Warwick: We have to go by numbers in our survey, and the majority rules. This is what we are speaking about. I am sure towns that are cross-border shopping and towns that cater a lot to tourism would feel very differently about Sunday shopping.

Mr Daigeler: Mr Poirier may want to speak on that consultation question.

Mr Poirier: Pertaining to the vocation, I have always seen Sudbury as having a real, but also an immense, tourism potential. Would you be able to elaborate on how that has fitted in with discussions among your members? What do you see happening for a tourism vocation in the short term or midterm for Sudbury, and may that change the perception of Sunday shopping in Sudbury? Have you discussed this with your members?

Mrs Warwick: Have we discussed this with our members? Maybe Debbi Nicholson, our executive director, could help me out here.

Mr Poirier: Obviously, being an advocate of tourism, having come here so many times in the last 15 years, I have always believed that Sudbury has immense potential. I was talking about this with some Sudbury people last night and they were discussing it. It is really picking up. Where do you fit into that?

Ms Nicholson: Certainly we are advocates of a strong tourism industry here in Sudbury. We have worked hard and long at that over the last decade and certainly have seen a lot of change. Our retail industry, however, does not feel it is necessary for it to be open on Sundays as it now exists. As Mrs Warwick mentioned, we have seen a shift in the statistical results we have been able to compile ourselves, and perhaps in another two, three or five years we will see an even greater shift again. But for the time being the feeling is that definitely we do not need Sunday shopping.

Mr Poirier: Okay, but they are still open to allowing other store owners, even in retail, to open if they wanted to. I may not feel I would like to open on Sunday, but if other retailers in Sudbury want to open, that is okay. Is that what you have heard?

Ms Nicholson: No.

Mr Poirier: So they do not even want others to be open?

Ms Nicholson: That is right.

Mr Poirier: Because they are afraid their opening might influence their market share.

Ms Nicholson: Exactly, and quite often the larger employers, the national companies, for example, do want to open. However, the small business people are forced to open in order to maintain their market share. So it no longer becomes freedom of choice; it becomes a must in order to maintain market share. As Mrs Warwick mentioned, a lot of the very small independent retailers are then working 70, 80, 90 hours a week. They cannot afford to hire additional staff. Their overhead expenses become that much greater because they have another day of the week on which they have to heat and light their building and provide security and so on, so they continue to lose their profitability.

Mr Carr: Thank you for coming here this afternoon. You have covered this question fairly well, but I just wanted to really make sure that members of the government side heard it, and of course the parliamentary assistant has said the government is listening. It is with regard to the situation where the chambers have to become involved. I think this is one of the items where we may see some movement on the government side. We have organizations that have come across saying, and the chambers that have appeared before us so far have said: “We don’t want the responsibility. Whatever you do, just keep us out of it.” I would just like to reiterate that. Maybe, just for the parliamentary assistant’s benefit, you could let him know again that this is probably the number one concern you have with it. Is that correct?

Mrs Warwick: Yes. The chambers were not consulted, and if we had been consulted, we are not a regulatory body, so we are not interested in assuming that position or we are not prepared to accept the legal implications that flow from making these decisions.

Mr Carr: The other question I had relates to the split. We had some of the other chambers come in and give us some data on their polls of their membership. What they did is they also included the retail. There seems to be a real split between those who are in retail within chambers and those who are not. Those who are in retail do not want it in a lot of areas, but the ones who are not in retail see the spinoff effect for their business because people are shopping Sunday and then will go to the restaurants or the other businesses that are involved. Did you see a real split? You did not put the statistics in here, so it might not be something that you were able to quantify. Did you see a real difference in your membership between the retail and the non-retail members on this question of Sunday shopping?

Ms Nicholson: Perhaps I could respond to that. Certainly in the 1989 survey that we did we specifically identified retailers who were responding and other members who were responding. The retail statistics opposed to Sunday shopping were 83%, whereas the general membership was the 70.5%. What we tend to find, though, is that the general member, not the retail member but the general member, tends to perceive the issue as a consumer and as a convenience to them or their spouses or their families or whatever. Sure they would like wide-open shopping, perhaps 24-hour-a-day shopping, who knows? But if they turn around and look at it from a retailer's point of view or if they themselves in their own type of business had to be open, would they want to be? It is a very different question.

Mr Carr: And this time, was the reason you did not do it that you did not want the internal split? It could be very divisive. It is tough keeping members together, and if you break it down and you get sort of a split, it is probably best to take an entire organization. So you want the total numbers, not to get any internal friction. Is that why those numbers were—

Ms Nicholson: We always do it on behalf of the entire organization anyway, because we represent all of our members, not just a certain segment of our members. We did do it this time as well, but I do not have the figures offhand; I would have to check that. I do not want to give you erroneous figures.

Mr Carr: I will leave some time. Thank you.

Mr Jackson: I presume there is a visitor and convention bureau in Sudbury.

Ms Nicholson: Yes.

Mr Jackson: And there is a business improvement area for the core?

Ms Nicholson: Yes.

Mr Jackson: Have you consulted with them about this contentious clause, which embraces them also in terms of—because it can be any one of you. It does not necessarily have to be all of you.

Ms Nicholson: We have not spoken with the BIA about it at all. I was not aware that the BIAs could be. The legislation does not specify them, it only identifies chambers or CVBs. I have spoken with the lawyer for the city of Sudbury, not with the CVB particularly, and he certainly had some problems with it as well.

Mr Jackson: Yesterday when this matter was raised by two chambers who were before us, I requested that the government provide some sort of written legal opinion, not a rationale for why they have the policy—that is a policy matter—but the legal basis in terms of the impact it will have on those agencies named in the regulations. The parliamentary assistant indicated that that would not be forthcoming. It is my intention to approach the new minister directly to see if he would be more co-operative towards the committee. Would you support getting that kind of written opinion from the Solicitor General's office of the legal impact of you assuming the responsibilities as set out in this regulation?

Ms Nicholson: I think regardless of what the legal impact would be, we are there to represent our members. We are a privately funded organization, businesses—

Mr Jackson: I am a member of a chamber as well. I do not need a description of your chamber.

Ms Nicholson: For the rest of the members.

Mr Jackson: I think everybody here knows what a chamber is. What I asked you specifically was, are you and the chambers in this province interested in getting a legal opinion as to what the implications of naming you in these regulations will be?

1350

Ms Nicholson: I think to have that information would be fine, but I do not think our position is going to change, regardless of what that opinion is.

Mr Jackson: I was not suggesting that it would change your opinion; I was just wanting to save the chambers from engaging lawyers to get written opinions on it when we should know why the Attorney General is recommending it.

Mr Mills: I know we have to look through bodies here, but I am here and I can see the top of your head. Thank you very much for your presentation here today. I just want to say one or two things about the concerns that you have.

My colleague Mr Jackson has voiced some concern inasmuch as the Solicitor General is not forthcoming with an answer. I want to tell you here this afternoon that there are many issues being looked into by the minister and one of those issues is that very issue. So to say that it is not being looked into and it is not being addressed is a little bit off base.

Mr Jackson: On a point of order, Mr Chair: For the record, I did not say that he was not looking into it; I said I wanted to know the legal basis on which he came up with the recommendation and its impact. If the parliamentary assistant is now clarifying that the Attorney General put in the regulation without knowing its legal impact, then that is news to this committee. My presumption was that they did check with their legal department about its implications and I simply want him to share information which the ministry has. That is what I am looking for, Mr Mills. That is what I expect your minister will be forthcoming with.

Mr Mills: I would just like to further add that we have heard your concerns and I understand them, and I want to assure you that there is no intention to put the chamber in the position that has been suggested. This particular clause in the regulation was designed to ensure consideration of

representation and participation of a local business association. I should point out as well that the involvement of a local business association pertains to all applications for a tourist exemption. I hope that clarifies this point regarding the involvement of your association, the local chamber, in this regulation. I look forward to hearing how your organization feels it can most appropriately be involved in the process forthcoming.

Mr Carr: Leave them out.

Mr Mills: I hope that clarifies our position.

The Acting Chair: Point of order?

Mr Daigeler: A point of clarification: Could the parliamentary assistant repeat what he has just said? Obviously this is going to be of significance to similar presenters, because the concern has been raised several times. What is the implication and what is the nature of that required consultation? I may be a bit of a slow learner, but since the parliamentary assistant I think is putting forward the official line, I would like to have it repeated, because I did not fully understand it.

Mr Mills: What official line do you want me to put forward? What do you want me to—

Mr Daigeler: On the nature of that consultation that is required, because the way I read the legislation before us, that is very different from the interpretation you just gave, so could you just repeat the interpretation of that clause you have just given?

Mr Mills: This particular clause in the regulation was designed to ensure consideration of representation and participation of a local business association. We are also saying that there was never any intention to put the chamber in the position that has been suggested here, in a legal position. There was never any suggestion that this position was suggested.

Mr Daigeler: It seems to be different.

Mr Mills: It was designed to ensure consideration of representation and participation of a local business association. Further to that, I can only reiterate what I said, that the Solicitor General is looking at this issue along with many other issues that have come up through these hearings.

Mr Daigeler: I think this is obviously going to be an issue that when we come to clause-by-clause we will want to take a close look at, but it is not the position that was put forward yesterday by the legal adviser of the Solicitor General, who indicated that in fact the chambers could be subject to judicial review, in other words, being put before the courts.

The Acting Chair: This is something better dealt with in clause-by-clause. I think in fairness to our presenters, we should continue on. Mr Sorbara?

Mr Jackson: A point of order, Mr Chair.

The Acting Chair: Mr Sorbara first.

Mr Jackson: Does he have a point of order?

The Acting Chair: Yes, he does.

Mr Sorbara: I will just defer to my friend from Burlington if he wants to make a point of order.

Mr Jackson: I clarified this point yesterday for the Chair, and I would just like to make sure that we are

consistent on this. We are not doing clause-by-clause on the regulations. We are getting feedback on regulations, but this section is contained also in regulations. So it is not necessarily going to be resolved in clause-by-clause is my understanding.

The Acting Chair: What I was suggesting was that it would be discussed at that time, and in fairness to our witnesses, it would be more appropriately dealt with at that time.

Mr Jackson: With due respect, Mr Chairman, on my point of order, which was really your clarification, the chamber is very vitally concerned about the issue of how it is legally put in this position. We are told that it is only for purposes of consultation. The chambers are saying across this province that they do not buy that. We have also heard from the deputants that the legal counsel of the city of Sudbury has advised them that there are legal concerns affecting it.

I figure that this is an issue which is on the table. If we wish to remove it and revisit it in Toronto behind closed doors, that may be the wish of the Chair, but I think it is perfectly germane to the questions being raised by the deputants, especially in the city of Sudbury, where the municipality's legal counsel and the local business improvement area or convention bureau, whichever group, has had discussions.

Mr Sorbara: Mr Chairman, I think there is no doubt that there would be consensus among lawyers and people who have reviewed the regulation that if the draft regulation remains as it is currently proposed, the legal implications for a local chamber of commerce are very significant indeed. In fact, we heard that on our first day of hearings from the executive director of the Ontario Chamber of Commerce, and he made that point in no uncertain terms.

It appears that Mr Mills is now qualifying the government's position, and I think that is encouraging. I think that is good news. What I would recommend, however, is that, rather than simply suggest a change in the government's position in the context of public hearings, for the sake of all of us, the minister, even though he is new in his job, could make an announcement or issue a press release stating that the government is going to revisit that issue.

There is no doubt in my mind that the chambers of commerce and the convention bureaus in the province cannot assume that responsibility. The legal implications are significant and severe and the cost implications are significant and severe.

It would help us—

The Acting Chair: Mr Sorbara—

Mr Sorbara: If I could just conclude in one sentence—

The Acting Chair: I think the parliamentary assistant has done what he was supposed to do. He has clarified an issue, saying that it was never the government's intention—

Mr Sorbara: If I could just make the point that it would assist us in our public hearings if, as we continue through the province, we could tell representatives of the chamber of commerce that they no longer need to worry

about that issue, so that in the limited time we have they would not have to bring forward those arguments.

I am suggesting to you, sir, and to the parliamentary assistant that the government simply needs to issue a press release that that approach is no longer on the table. It will allow us to narrow the focus of these hearings, and frankly, it would take a great doubt off the shoulders of not only the Ontario chamber but the chambers in every single community in the province. So I would ask that the Solicitor General do that and I would ask through his parliamentary assistant, who has been participating for a number of days now and knows the problem.

The Acting Chair: Mr Mills, would you like to address that?

Mr Mills: I would just like to say that the government realizes that there is a legal impact here and we are looking into it. I do not know what you want me to do, other than to say that we recognize it and we are looking into it, and when we arrive at an answer, if we do arrive at an answer, then it will be related to committee members. Right now we are looking into it, and I think that is very good.

Mr Sorbara: If I could just make the point once again, Mr Chairman, there is no doubt that the government is looking into it. It is looking into the entire legislation, and everything, I guess, is on the table, except for the things that he says are not on the table. But that means that for the rest of the public hearings, the chambers have to make the point over and over again. If the government would just say, "We're going to take that off the table," it would ease the burden.

1400

The Acting Chair: Thank you, Mr Sorbara. If we could continue with the questioning, Mr Lessard.

Mr Lessard: I just want to apologize to you for that brief interruption and also for the fact that your organization did not get consulted. It is something that should have been done before, and it is unfortunate that it was not. I understand that you do not see the role of the chamber in being involved in the process that has been suggested in the draft regulations. Having said that, do you feel there is a role for the chamber in this issue?

Mrs Warwick: No. It is a very dicey issue, and there are so many different opinions on Sunday shopping. I am a perfect example. I love to shop on Sunday, but I do not want to work on Sunday. I work 10 hours a day, six days a week, and I have no time to shop, but there is no way I want to work on Sundays, thank you very much, or pay staff to work on Sunday, because it is not financially viable. This is a real sticky issue.

Mr Lessard: You have surveyed the members of the chamber with respect to this issue, and I notice that in your last survey, when you asked them whether they were in favour of Sunday shopping, the split seemed to be fairly close. Notwithstanding that fact, you make the statement in your presentation that you feel strongly that there is an essential value in the preservation of a common pause day. Notwithstanding the fact that there are some members who are in favour of Sunday shopping, there is a strong consensus

that there should be a common pause day; there is support for that principle. Is that correct?

Mrs Warwick: That is correct.

Ms S. Murdock: Actually, I am glad you brought the regulatory aspect to the forefront here. I am just sitting in today, so I have not had the opportunity of listening to the previous presenters, but it is nice to hear that.

In terms of the criteria that are used to determine whether a retail business is or is not a tourist operation, subsection 4(3) is the one you are objecting to. What I am hearing you say is that you would like that subsection removed. But in relation to the rest of the regulations, do you have any thoughts or concerns on the six criteria that are required to determine the geography, whether within that geographic space you are a retail business for tourist operations, and then, after it is determined you have met two of the six, whether you fulfil the four criteria that are required? Does that meet your concerns?

Ms Nicholson: We did not look at those other points in any sort of detail, so we would not be able to give you a quick answer here—yes, we are in favour or no, we are not in favour.

Ms S. Murdock: I presume you read the whole regulation. When you read it, did anything jump out at you in terms of those criteria to determine whether a business would meet the criteria required under the provincial regulation?

Ms Nicholson: We were not looking at the criteria for which a business would have to qualify at all. Yes, we read through it, but no, we did not examine it at all.

The Acting Chair: Mrs Warwick, Ms Nicholson, I would thank you on behalf of the committee for taking time out this afternoon and appearing before us.

Mr Sorbara: Just a minor point of order, Mr Chairman. Can we find out on whose behalf Mr Lessard was offering an apology to our deputants? Is there something the committee did wrong?

The Acting Chair: On behalf of himself, obviously.

Mr Sorbara: He did well and I thought you did well.

ONTARIO HOTEL AND MOTEL ASSOCIATION

The Acting Chair: I would like to call forward the next presenters, from the Ontario Hotel and Motel Association. Thank you for being here this afternoon. You will be given half an hour for your presentation. You can either use up the full half-hour for your presentation, or you can make it a shorter submission and allow time for questions and comments from each of the caucuses. Could you please identify yourself for the record and proceed.

Ms Dozzi: My name is Melinda Dozzi. I am president of the Ontario Hotel and Motel Association, whose head office is in Toronto, but I happen to reside in Sudbury, where I have resided my whole life.

I am going to introduce my speech in a casual fashion if I can. It is like bringing you into my home and saying, "Oh, my gosh, she's going to bore us," like showing home movies. I am going to tell you a little about myself and my family, because with the group of people I represent, the hoteliers, the motel owners, the tavern workers, the lounge

and the restaurant operators in the province, I must speak a bit about myself and my family.

I know you are very interested in the quality of life that people will have if they are forced to work on Sundays. Coming from the background I come from, I have seen my family work in this industry for many years. My family has been involved in the hospitality industry since 1937 in the city of Sudbury—54 years in business.

My father started with the first small hot dog stand in Sudbury—we used to call it the Milk Bar—with a grocery store and gas tanks. He worked long hours, as did my mother. I grew up in this industry. I have a brother and a sister who are still in the industry, my brother residing in Alberta and my sister being co-owner of the business we have in the city of Sudbury.

My dad remembers when wieners from Schneiders were 17 cents a pound and relish cost 48 cents a gallon and was stored in wooden barrels. His first cash register was a cigar box, and his biggest customers were the weary and very hungry men coming off the afternoon shift, 4 to 12, at the International Nickel Co of Canada, because our establishment was on what was known at one time as the Copper Cliff Road.

The grocery store we had was open to convenience customers, and I remember as a child hearing people bang at the door at all hours of the day and night asking for a loaf of bread or a pound of butter. I very well remember that during the Second World War, my dad was sick and my mother was pregnant and she was up at all hours of the day and night, sometimes at 5 or 6 in the morning, with the gas pumps, giving gas to the miners who were on their way to work, or sometimes they happened to be travellers.

We were all raised and educated in good schools, given a Christian education. Family and friends have worked for us over the many years we have been in business, and still do. Our family has employed many young people who have resided and still reside in Sudbury and others who left Sudbury a long time ago.

I went on to university, resided in London, Ontario, and graduated from there, and I taught high school for 17 years. So I have not been strictly in this industry all my life.

I recall, when I was a child, that many times my parents had to work on Saturdays, Sundays, but my father and mother always found time to take us, in the middle of the week perhaps, on Wednesday, Tuesday, Thursday, camping or hunting or fishing, whatever it might be.

There have been so many issues that have faced this industry over the years, and I feel Sunday shopping is one of the issues facing us right now. I recall in 1952 that my parents were interested in putting beer, liquor and wine into our dining room. We could not do that. It was against the law then to have beer, wine and liquor in dining rooms in Sudbury. Then, it was just the men's beverage room and the men and women escorts, or whatever it was, on the other side—I have to be careful.

Mr Sorbara: Ladies and escorts.

Ms Dozzi: I remember in Sudbury that in order to do this we had to go to plebiscite. Several hoteliers, along with my dad, put up the money to go to plebiscite, and we

had to build 16 motel rooms in order to get a licence in 1952. We never wanted to get into the hotel business, but he was forced to in order to get beer, wine and liquor sales in our establishment.

I remember in Sudbury when we were closed on Wednesday afternoons. No retail outlet was open in Sudbury on a Wednesday afternoon. Now we are open on Wednesday afternoons. At that time, it was a big issue: "You can't open Wednesday afternoons. We have to have Wednesday afternoon off to go bowling, to go skating, to do whatever—play bingo." No one thinks about this any more. Do you ever go to a community which is closed on a Wednesday afternoon? It was in Sudbury. It was a big issue in those days about opening Wednesday afternoons.

I remember the big issue of Sunday movies. It was a no-no to go to the movies on a Sunday. Now on a cold winter afternoon, especially when you live up in this part of the world, other than staying home, I suppose, and being a couch potato and watching TV, etc, people go to movies on Sundays.

1410

Mr Sorbara: Just ask Pee-Wee Herman.

Ms Dozzi: That was not fair. There was an item on the news this morning saying he is going to be hired in that type of theatre. Poor guy.

Anyway, back to where I was. I must say, because of the previous speakers, that the hotel association of Sudbury and the hoteliers and the owners of the licensed and unlicensed establishments are not supporting the chamber of commerce view that we are against Sunday shopping. Therefore, when they say they represent the members of the chamber of commerce, they really do not, because they are not representing our association, and we have many hotels and motels. We have nine full-service hotels in Sudbury and no one agrees with the stance they may have taken that they are against Sunday shopping. All our hotel members in this community are supporting the stance of the hotel association.

Just before I came in here, I was talking to one of the hoteliers, who has just returned from a trip to England and Ireland. He said that in England and Ireland now everyone is open on Sundays. Do you know why? The economy is so bad that they have to work on Sundays and they are glad to work on Sundays, especially in built-up tourist areas.

Just as an aside, and I want to tell you this has nothing to do with Sunday shopping but is something you should think about: I just left my property, and I had 37 people in for lunch from Southwest Tours in Madison, Illinois. The tour guide would not stop talking about how expensive it has been travelling in Ontario. Her name is Laurel Johnson. In fact, I am going to fax her tomorrow and ask her to send me a critique of her trip and where she has been. That is all she talked about, how expensive the food was and the accommodations and things in general in Ontario.

She said: "When you talk to these people, when you mention the price of your buffet or your salad bar, whatever it is, please don't say anything about 15% service charge, GST, PST, because it confuses them totally and they don't want to hear it. Say to them: 'We have a set

menu' or 'We have a set price,' and that's it. Please don't introduce all these other issues, because it confuses them thoroughly." She said it was so bad that they have had to stop at several banks along the way and let people get extra money out. Because this was their last stop before they moved into Sault Ste Marie, Michigan, they were digging deep into their pockets to spend every little coin they had in Canadian money. They did not want to take it back with them, and they were asking my cashier for change in American money. They did not want any Canadian money left in their pocket. I realize it is not Sunday shopping, but it is something we should think about. It is sort of scary.

Now for the more formal presentation I have, because I must speak for the members of the hotel association in this city and also in the province.

Tourism is the lifeblood of this industry, but by continually heaping restrictions on what is already an era of economic uncertainty the government succeeds in cutting off that supply of blood. I respectfully request that members of the standing committee on administration of justice consider the following: That Ontario encourage tourists and visitors by having unrestricted retail shopping on Sundays and holidays in all areas throughout the province as the market dictates without any restrictions.

The Ontario Hotel and Motel Association is in favour of unrestricted Sunday and holiday shopping. We feel that unrestricted Sunday and holiday shopping is vital to the economy and the tourism industry throughout the province. In a market-driven economy such as ours, consumers should be allowed their freedom of choice to decide which retail businesses and establishments they wish to patronize. The open and free market should be the final arbiter as to whether retail businesses function on Sundays and holidays.

While respecting the employment standards, unfair and inequitable legislative restrictions are the worst form of economic blackmail in a free market economy.

As well, Ontarians should have the unrestricted right to work, earn incomes and profit from the production and sale of goods and the provision of services any day of the week. Economic prosperity generated in a free and unrestricted economy would benefit all Ontarians and their quality of life.

Retail shopping is an integral part of the tourist experience and represents a significant portion of the value of all tourism expenditures in Ontario. Most retail shopping, dining out, touring, sightseeing and recreation take place on weekends. Shopping has become a family outing, and the majority of Ontarians and visitors favour retail shopping on Sundays and holidays.

As I was leaving my place of business to come here, one of my staff said to me, "Tell them I work a lot and I really miss shopping on Sundays."

The popularity of cross-border shopping shows that Canadians will travel south, not only because they perceive the products to be cheaper, but also because the ease of access to these goods is enticing. Whatever happened to "Buy/shop Canadian?"

This industry is the largest private sector employer and in the service sector it accounts for 70% of all new jobs.

Tourism is responsible for the creation of 32 full-time jobs for every \$1 million in tourism expenditures. We employ professionals, skilled and unskilled, and we are the largest employer of women, youth, aboriginal peoples and visible minorities. There is no other employer capable of this range of employment opportunities for permanent or part-time employees of professional service staff, college or university educated and the uneducated.

Tourism is one of the nation's largest generators of personal income, corporate, property, business and sales tax to all levels of government. The closures of retail businesses on Sundays has meant job losses to many, especially students who rely on this income for their schooling.

Our members throughout the province are reporting a large drop in business. They strongly feel that the availability of Sunday shopping will alleviate slightly the slumping economy. Of our members surveyed, 75% have said that closing the stores on Sundays has meant a decrease in revenue.

We recognize that other factors have also contributed to the decrease in revenue, but feel that the freedom of choice to open and work at retail businesses on Sundays and holidays is a means to reverse this problem.

This revenue means survival to quite a few and unless retail shops are allowed to open on Sundays to draw tourists and visitors to their respective areas, many will have to close their businesses. Obviously, the hardest hit areas are the border cities. Ontario will remain uncompetitive and continue to lose billions of dollars' worth of annual tourism sales unless we change and allow unrestricted Sunday and holiday shopping.

The hospitality industry today is faced with many obstacles and increased operating costs. In order to remain competitive and recapture some of the lost business from our neighbours to the south, we must have the ability to compete on a level playing field. Bordering American cities are wide open for retail business on Sundays and holidays. The value of the Canadian dollar, we know, is out of line, and works against Canadians. Americans do not assimilate dollars to dollars. They can assimilate dollars to pesos, dollars to lire, dollars to francs, but Americans on the whole have a hard time assimilating dollars to dollars.

The ministers can say as often as they want that the 10% or 15% premium on the American dollar helps tourism and helps bring travellers and tourists into Ontario and into Canada in general, but this is not so; 10 cents does not mean a great deal.

Most Ontarians cross-border shop for less than a day, on the weekends, with the largest volume of traffic on Sundays. Sunday shopping should be unrestricted in Ontario to permit—excuse me, I am repeating myself—a level playing field, an unrestricted freedom of choice in the marketplace.

While Bill 115 has some merit and we appreciate the Ontario government's recognition of the value and importance of tourism in this legislation, we do however feel that interpretation of the tourism criteria would create a lot of confusion, not to mention an administrative nightmare in time and cost.

To limit the timing for municipalities to declare themselves as tourist areas is also too restrictive; circumstances could, and most likely would, change at a later date. Municipalities and chambers of commerce do not need this responsibility and they do not deserve it. It is not fair.

1420

The concept of a common pause day in Ontario is outdated and discriminatory. Multicultural Ontario in the 1990s is populated with every religion and ethnic background, and to allow one faith, belief or ethnic custom to dictate the lifestyles of everyone is wrong.

In our contemporary society Ontarians work at all hours of the day and night throughout the week. Hotels, hospitals, transportation, just to name a few, all must work on a 24-hour, seven-day-a-week basis. While some people rest, others conduct business and provide services. Their professions are a necessity in any community and I do not believe their quality of life is diminished by their work schedules.

We must provide these products, experiences and services to our customers when they want them or risk losing them to other, competing jurisdictions.

To stimulate tourist activity in northern Ontario and thus utilize the region's most readily available non-depleting industry as an economic generator, northern Ontario must be perceived as a major destination by potential visitors, both domestic and foreign. Tourism is an increasingly important sector in northern Ontario, particularly for those communities lacking any major resource industry.

I was in Niagara Falls not too long ago to meet our director and our people there. They were lamenting greatly in Niagara Falls, as you well know, because of cross-border shopping, although people who live in Niagara Falls and St Catharines have been cross-border shopping for years. Now it is the extra people who are going across the border to shop.

Our director there said to me, "It used to be that Niagara Falls was the tourist destination in Ontario." Now every single town, big or small, whether it is Dryden, Kenora, New Liskeard, Kapuskasing, Elliot Lake or wherever, wants to be a tourist-oriented community. You never thought before: "I'm going to go on a holiday. I'm going to go to this wonderful little tourist community of New Liskeard." Now everybody wants to get in.

This business must be important because every community—Sudbury has just spent a fortune campaigning to promote itself as a tourist destination. There is not a single little town anywhere in this wide province of ours that will not say, "I want to be a tourist destination." Go to any community, big or small, they are not going to say, "We do not want to be called a tourist destination." Go to Lake of the Woods, go anywhere you want. I represent these people, 26 zones across the province, from Kenora, Dryden, Lake of the Woods to Kingston, Windsor, the whole gamut, and no one says they are not tourist-oriented or a tourist destination.

I want to mention another thing that I think might be interesting for you to know. I just came back from a Calgary meeting of the Hotel Association of Canada. The big issue was not Sunday shopping, because in Calgary stores

are open from 12 to 5 every Sunday. The big issue with the hoteliers of Canada is rising taxes and that type of thing, which we feel is hurting the industry tremendously, whether it is a federal, provincial or municipal tax.

We were on a shuttle bus coming down from the Banff Springs Hotel into the centre of Banff and there was a young Japanese girl on the bus. We were talking to her; she brings a group of Japanese from Vancouver every single week during the summer months into the Banff-Lake Louise area. We asked her: "What do the Japanese really want to see when they come to Canada? What cities do they want to see?" I was shocked at her answer: Vancouver, Banff and Lake Louise, Niagara Falls, and Charlottetown, Prince Edward Island, because of Lucy Maud Montgomery. They want to see where Anne of Green Gables came from, especially since they took the show to Tokyo—by the way, the young lady who played the lead was a Sudbury girl; I want to tell you that.

I was really surprised. I never thought of Prince Edward Island, Charlottetown and that area. Not Toronto, because it is a big city and Tokyo is a big city. Not Montreal, because Paris is a big city and many Japanese have been to Europe. So they are not interested.

Those were the designated areas for her group, and she brought one busload a week into the Banff-Lake Louise area.

I was hoping she would say Sudbury, but she did not. On most summer weekends, it is not uncommon to find 300,000 vacationers among northern Ontario's roughly 800,000 residents. Tourism is northern Ontario's third largest industry and it provides numerous employment opportunities. This year, of course, our numbers have not been attained.

The north offers a great deal of promise for tourism, and through proper promotion, tourism in northern Ontario can offer world-class wilderness and outdoor vacation opportunities. The best potential for tourism lies in the non-resident pleasure travel market. The key to success is northern Ontario's ability to develop long-range plans to permit local tourist operators to plan for the future and sell northern Ontario. Without the proper transportation and upgrading of amenities, northern Ontario's ability to capitalize on the world's largest and fastest-growing industry may be lost.

Sunday shopping should not be restrictive. We should give visitors every opportunity to shop. We must service our tourists.

We appreciate that the proposed amendments to section 11b of the Employment Standards Act recognize the operating realities of our industry. It is most important that all employers retain the right to schedule work and dictate work schedules. It has been reported that out of more than 10,000 inquiries and complaints registered with the employment standards branch of the Ontario Ministry of Labour in 1990, fewer than 15 were related to the right of retail workers to refuse to work on Sundays and holidays. Just let it happen. In a couple of years, you will not even think about it.

In closing, I ask that you bring Ontario forward into the 21st century so that we become once again the province to lead. We have a tendency to live in the past, remembering how mother was at home in the kitchen and how the smell of fresh baking greeted us as we returned home from

school. But we all know times have changed and we must also change, not only to keep up with the times but to take the leadership role in a changing society. We always remember the good things in the past, but we also remember that change is good and change is what keeps us alive.

What happened when stores were allowed to open on Sundays? Has the public been asked, both workers and shoppers? We have to grow up. We will always want what our memories think is best, but does that mean we hold back progress? We are constantly being told that we live in a free world where we have the freedom of choice, but legislatures are continually trying to take this from us. The freedom of choice to open retail outlets on Sundays is not a luxury but a necessity. To many it will mean survival.

Mr Poirier: Melinda, I guess if they leave it up to you, Sudbury is just going to be invaded by the Japanese and all of the Orient, with your determination.

There is an interesting difference between the chamber of commerce and your position. What do you see in the near future if you look in your crystal ball? What do you see for tourism in Sudbury in the coming few years and what do you see evolving in Sudbury for Sunday shopping?

Ms Dozzi: For Sunday shopping?

Mr Poirier: Based on what is going to happen to the tourism sector in Sudbury. What do you see?

Ms Dozzi: I just see what I said before, if you let it happen without all this fuss and bother. Everything that happens with us now becomes an issue. It is always an issue. We have to speak. Just let it happen without all the fuss and bother. If you let it happen and let it happen quietly, it will just happen. In a few years, you will look back and you will think to yourself, "Why would we make this much fuss?"

I know that so many people in labour and so many people within your group are concerned about the quality of life of families and children. There are people who stay home seven days a week and are probably the worst parents and grandparents that you could ever find. They are the ones you have to be worried about.

I do not have a crystal ball, I cannot foresee this, but I think if you just let it happen—like opening stores on Wednesday afternoons—you will never remember that we were not allowed to open on a Sunday. I know, just travelling the little bit that I have. I am sure there is not one of you sitting around this table who has not travelled and gone into a store somewhere in the States, somewhere in another country, and shopped on a Sunday. I cannot believe that anybody would say to me, "I have never shopped on a Sunday."

Mr Carr: Thank you very much for a wonderful brief and for making it so exciting. One of the questions I have is this: We have gone around the province so far, and municipalities, for example, Collingwood, have voted 9 to 0 to take the tourist exemption; 5 to 2, I think, up in Thunder Bay.

Ms Dozzi: To take it?

Mr Carr: To take the tourism exemption and be open on Sunday. Windsor is now saying it wants to open because of the cross-border situation; Collingwood will open and Thunder Bay. It will be a snowball effect. I would be interested, particularly as we have the parliamentary assistant

to the Minister of Labour here, if you could give us some guidance on how to protect the workers. This morning we heard from the two labour groups that were in that there is no protection, that the existing law does not protect them and that employers will get around that. We heard from business groups across the province in some of our other submissions say, "We don't want people working on Sunday if they don't want to because if they go into the store and their chins are down to the floor, it hurts sales." I want to see, as somebody who has had experience with that, how you and your group see making sure that those who do not want to work because of religious reasons or whatever can have that, while balancing the rights of the employer. How would you see that working? Is there any guidance you can give?

1430

Ms Dozzi: You know how we are encouraging community colleges, universities to incorporate the hospitality program into their programs, whether it be at a community college or a university like the University of Guelph. When they go to school to be trained and to learn they realize if they are going into this field that we are open 24 hours a day, if you have a hotel, and we are open 364 days a year. Some, the larger properties, hotels like the Holiday Inns, the Sheratons, are open 365 days of the year. When you apply for a job within our industry I think you realize this is the kind of job where you are going to be asked to work perhaps Monday to Sunday, etc. Within the industry, it has not very often happened because of a religious reason, because then what do you do with Saturdays with Jewish people? That is their day, so there would be a lot of stores, etc.

What happens normally is that when someone requests a day off because they are going to a wedding, they have a baptism, they have a bar mitzvah, they have whatever, I do not think employers are that unfeeling. They would not be employers very long if they said, "No, you absolutely cannot do that." Given that a lot of people who work for me who are of ethnic background, foreign background, when they have a wedding or a baptism, even if I said to them, "Please work," they would say, "No, I'm going anyway." So you have to work around that. But as a fair employer—and as I say, if you are not a fair employer you would not be in business a long time—I think you grant people. In our industry if there are people who need days off to go to doctors, to go with their family, to do that, they request it in writing a week or so ahead, sometimes a month ahead, and say: "I definitely need those special days off. May I have them?" If something is horrendously wrong that you cannot, you sit and you speak with them and you talk to them and you talk one on one. "Could you do me a favour, even if you come in in the morning for a few hours, because I have a wedding, I have a banquet."

How would you like to walk into one of our establishments and hear: "Well, your daughter's wedding meal isn't ready. My staff went home. I haven't got a staff to feed you." Why is it so different in our industry and why are they so special? If you go into a wet restaurant and a waitress is not smiling at you, is not happy with you—I just heard the liquor control board chairman speak, Andy

Brandt, and he gave a whole list of why the hotels and some of the restaurants are not succeeding. He did not talk about LCBO so much. He talked about the fact that within the province there are so many restaurants where you walk in and the staff have their faces to the ground. He does not like to eat there. You hate that yourself. You do not want to go in a restaurant and wait five minutes for a cup of coffee, but you will go to Eaton's and shop and wait half an hour or search for somebody to wait on you because they have cut down their service staff so much because things are tough and the economy is hard.

Mr Fletcher: Thank you for your presentation. Your argument was going along that with Sunday shopping we could decrease cross-border shopping and with Sunday shopping we could increase the number of people being employed and yet, when I look at the Ministry of Tourism and Recreation statistics for 1990, when we had six months of Sunday shopping, Ontario resident travel to the USA was up 21% and the average monthly employment was down by 4.7% for accommodation and it was down 7.5% for food and beverage and that was with—

Ms Dozzi: Could you please tell me what months were they in, though?

Mr Fletcher: I just have them for 1990, but that was six months—

Ms Dozzi: Under the Liberal government we opened on Sundays, so it brought us through the winter months, and in the winter months—

Mr Fletcher: No, the law was struck down in June of 1990. So you had June, July, August, September, which were probably the peak months for tourism in Ontario.

Ms Dozzi: I am not saying that all of a sudden because our stores were open on Sundays it was going to create an influx of visitors. What I am saying to you is that when they come in, do not give them one more thing to go away from Ontario to criticize.

Mr Fletcher: But the total travel in Ontario from all origins increased by 18.4%, so there was an influx of tourism in Ontario in 1990 during open Sunday shopping.

Ms Dozzi: But I do not think they came to Sudbury or Ontario just to shop, Mr Fletcher.

Mr Fletcher: Okay. What I am also saying is that primary commercial accommodation stays in hotels were up by 53.6% in Ontario.

Ms Dozzi: In this year?

Mr Fletcher: For 1990, during the time that there was open shopping, and yet, what I am saying is that employment was down in two sectors and also the increase in cross-border shopping was up. Tourism increased and Ontario residents increased their travel in the province during that time in 1990, when there was wide-open shopping for six months and everyone said it was great and you just said that it is going to increase employment and we are also going to stop cross-border shopping. In fact, it is not showing that.

Ms Dozzi: Nothing is going to stop cross-border shopping, because cross-border shopping is something that has become ingrained in a lot of people and they—

Mr Fletcher: But in your presentation you said Sunday shopping will—

Ms Dozzi: Will help. I am not going to say 100%. Nothing is going to do it 100%.

Mr Fletcher: Right. And the employment figures do not add up, that when there is open Sunday shopping you are going to increase employment, because we did have it and tourism did increase. As I said, it was up 53%, where people were staying in accommodation, and yet in those sectors the employment opportunities went down and people were being laid off.

Ms Dozzi: Like I say, I do not have a total explanation for that and I cannot say that all those figures and where they were based from and what months in employment, etc.

Mr Fletcher: This is coming from the research policy branch of Tourism and Recreation. Thank you.

The Acting Chair: Ms Dozzi, on behalf of the committee, I would like to thank you for taking time out this afternoon to come and give your presentation.

Before I call the next presenter, I would like to take note that one of the councillors for the city of Sudbury, Mr Ray Bonin, has been here this morning and this afternoon. I would like to thank him for his interest in this committee and taking the time out.

1440

A&J HOME HARDWARE

The Acting Chair: I would like to now call on the presenter from A&J Home Hardware. Thank you for being here this afternoon. You will be given half an hour for your presentation. You can either use the full half hour for your presentation, or else give a shorter presentation and allow time for questions and answers from each of the caucuses. Could you please identify yourself for the record and then proceed.

Mr Michel: Mr Chairman, members of the standing committee on administration of justice, my name is Arnel Michel. My wife and myself operate an independent hardware store in this community. I have several points I think are valid to this committee.

Several large chains want to open Sundays because it puts more dollars in their coffers. They themselves would not be working on Sunday and do not really care about the employees who will have to. I feel if parents do not spend some time with their children, particularly on Sundays, who will teach them that life is more than television, alcohol, drugs and the streets? I was happy to see a new government in Ontario that seemed to have the guts to govern. Now I see it is bending to get support from the big guys, like the other parties did.

Of my staff of 14 people six said they will not work on Sundays, four are not fussy of the idea and four did not care. Unfortunately, my people with knowledge are the ones who will not work. Many will say, "Hire more staff for weekends." They do not realize how long it takes to learn how to help customers to fix their faucets, with the pump problems, their plumbing, electrical, their fertilizer and insecticides and other things. Sunday part-timers could not look after their needs. So many of the same people

who would like this Sunday shopping would be very, very unhappy if they could not get the service in our stores.

I visited six independent confectionery stores in my area. They tell me their Sunday sales dropped from 20% to 40% when the large chains were open on Sundays last year. These stores do one third of their week's business on Sunday. We need these corner stores when an unexpected visitor drops in and we need a loaf of bread or a quart of milk. If we do not give them some protection, many will have to close and we will have more people on the unemployment lists. I am a great believer in family life and think Sunday should be a common pause day. Sunday should be a day for the family to relax together at camp or each his own way. Being a churchgoer, as many people in our community are, I noticed that Sunday is the day when all churches hold their services. I think that is something we have to keep in consideration.

Working Sundays as well as the six other days of the week will cause many of our independent retailers, retail people to burn out. A local psychiatrist tells me that 4% of the patients at our local psychiatric hospital are there because of burnout caused by tension and working too many hours. Our community, as others, has only so many dollars to spend and Sunday openings will cause more inflation, as prices will have to go up to pay for the extra help, the extra hydro and the extra other things that our business will have to pay. We will also be less competitive with the United States because inflation will bring our prices up.

My recommendation is for the government to do its job. They should not pass an important issue like Sunday shopping to the municipalities or any other group. In the Sudbury district we have several municipalities in a 15-mile radius. What I see happening is one council allowing seven-day shopping, then all hell will break loose and we will no longer have control. If we deal properly with part I of this law, part II will not be a problem. It will pretty well look after itself. Thank you.

The Acting Chair: Thank you. That leaves about six minutes for each caucus.

Mr Sorbara: Thank you, Mr Michel. I just noted in your brief that you said in paragraph 5 that Sunday is the day that all churches hold their services. I am sure you would perhaps want to qualify that for members of the Jewish faith—

Mr Michel: Maybe I should say that most churches hold their services. I never realized that those of the Jewish faith had their services on Saturday instead of Sunday.

Mr Sorbara: And those of the Muslim faith have their holy day as Friday.

Interjection: Seventh Day Adventists too.

Mr Sorbara: The Seventh Day Adventists, yes, have their services on Saturday. I am wondering whether you feel that any store should be open on Sunday. You support the convenience store, I take it: 1,200 square feet, milk, bread, cigarettes, coffee?

Mr Michel: Yes, I think the convenience store should be open because there always are cases when you need something. Sure, you will pay 10 cents or 15 cents more for the loaf of bread but you are not there every day doing

your shopping. That is a large portion of our people who have to have jobs and they are in private business and they pay a lot of taxes to the province and I think they have a right to be in business. I think there have got to be some drugstores, and the tourist business. Some restaurants and some people in the tourist business have to have the motels and some stuff like that.

1440

Mr Sorbara: In theory I tend to agree with you that it would be nice if we could design a society where there was basically no commercial activity for a day. That would be, in my view, an optimal in society. The unfortunate problem is that when we get into deciding that some can remain open, then the government starts picking the winners and losers. Just take your business as an example. This law is going to allow garden centres to remain open on Sunday. Why should you not, if you chose to, have an opportunity to sell garden hose and lawnmowers and potted plants and pots for plants and all of the paraphernalia that goes with good gardening? Why should you not be allowed to compete if those facilities are going to be open?

Mr Michel: They have been open all along. They are classed, because they have perishable goods, that they can. I do not think it is ideal but—

Mr Sorbara: Now we find drugstores that are staying open and they are selling tools and, my God, chainsaws and all sorts of things—another part of what is, at least in traditional terms, your market. Those are the goods that you sell.

Mr Michel: I see that. I understand the beer stores are going into the hardware business.

Mr Sorbara: The beer stores are going into the hardware business?

Mr Michel: They sell glasses. They are going to sell all kinds of things in Ontario. That is government-owned; I think they should stay in the beer business and not be in these other businesses.

Mr Sorbara: My problem, and the reason I would advocate that we let the marketplace deal with this and allow you to stay open or remain closed as is your choice, is that it is so terribly difficult for government to pick the winners and losers in the Sunday marketplace. How are we to resolve that? Should the garden centre and the drugstore be allowed to stay open, and at the same time the government require you to stay closed, if they are selling your line of products?

Mr Michel: It is a very hard one to solve. If you want to see a relaxed place, travel a little bit through the Scandinavian countries. I visited Norway, Sweden and Finland and all stores and almost all restaurants close at 5 o'clock on Friday night and they open on Monday morning because Saturdays and Sundays everything is completely closed except for a few tourist outings. People do not want to work and it is their day to go skiing. There is a lot of skiing and stuff like that. But they have been doing it for hundreds of years and are very successful at it.

Mr Sorbara: That is of course what the government would like: sort of the Scandinavian model where only

stores that promote or maintain tourism should be allowed to remain open. But when you start to look at the law, just about anything could stay open and could compete with your business. Under those circumstances, do you still agree that the government should have the power to require you, as a traditional hardware store without a tourist market or a drugstore market or a garden centre market, to remain open? My view is that we will not be like a Scandinavian country, and therefore if you choose to open on Sunday, the state should not interfere with that right.

Mr Michel: I feel there must be some way they should govern what each business is selling. If they are going way overboard in what they are selling and the types of products they are selling, then they should be told, "Hey, if you want to be open, you shouldn't be selling this type of product."

M. Poirier : Monsieur Michel, on souhaite à Sudbury qu'elle devienne une vocation très touristique, parce qu'on sait très bien que le secteur touristique peut vraiment influencer le secteur économique d'une ville. Supposant que le secteur touristique de Sudbury est de beaucoup rehaussé ; est-ce que vous voyez, dans un proche avenir, que les commerces vont subir une pression encore plus haute à ouvrir à cause de l'évolution du secteur touristique?

M. Michel : Je ne le crois pas. Pour une chose, je crois que notre plus grosse attente, la plus grosse chose pour le secteur touristique à Sudbury, c'est Science-Nord. Je trouve que c'est un défaut qu'ils ferment les portes à cinq heures du soir. Quand beaucoup de gens viennent l'après-midi, ils aimeraient rester plus tard pour voir les choses ; il y a tellement de belles choses à voir là. On n'est pas ouvert parce qu'on ne veut pas travailler ces heures-là. Mais on voudrait que tous les magasins soient ouverts à toute heure. Plusieurs de mes clients m'ont dit, «Vous devriez être ouvert jour et nuit». La chose que j'ai trouvée la plus drôle c'est que parmi ces gens-là, 30% des gens retraités voulaient qu'on soit ouvert jour et nuit. Pour eux c'est comme un hobby, aller marcher dans les magasins ; ce n'est pas une nécessité, mais eux autres n'ont que ça à faire. C'est comme un babysitting system pour ces gens-là qui ne savent plus où aller.

M. Poirier : Donc vous ne voyez pas de grands changements, même si Sudbury était appelé à vraiment développer son tourisme ? Vous ne verriez pas une pression sur vous et sur d'autres magasins de détail pour avoir des heures plus longues, y inclus le dimanche ?

M. Michel : Je ne le crois pas. Ils ont six jours par semaine puis les soirs, alors il n'y a que le dimanche, et il y a tellement de choses qu'on peut faire. On a tellement de beaux lacs et de parcs. Il y a tellement de quoi faire ici à Sudbury le dimanche qu'on ne devrait pas être obligé d'être dans les magasins.

M. Poirier : Parfait.

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Mr Jackson: Several comments strike out at me in the report. I appreciate your candour and your expression of your experience, but let me get aside a concern I have. I am a little nervous about the generalizing that larger stores do

not really care about the employees. Just to put the point on its reverse, the cases of workplace sexual assault are higher in smaller workplace environments than they are in large ones. So I just am nervous about generalizations. I feel better now having gotten that off my chest. I just did not really like that kind of generalization on any subject.

Mr Michel: Maybe I should not say "bigger stores," that general, but the managers do not like it. I agree with you the managers do not like these situations, but the people who make the laws are the big guys who spend most of the time in Florida and stuff like that. They are the ones who are pushing this because they are the ones who get the dollars in their pockets at the end.

Mr Jackson: Which distinguishes them from the employers who spend their time in Finland. I guess I really just wanted to indicate that I did not feel that was appropriate. I have a lot of respect for small business, but I also understand legally how our legislation is structured, where we target large businesses in labour laws, and we have to be very careful about oversimplification.

I guess you consider yourself very fortunate, understanding this legislation, that you live in Sudbury, which puts a low premium on tourism relative to other communities we are hearing from in the north. I sense it is highly unlikely, given the newspaper reports today, the presentations today, that this is a city that will overtly pursue tourism as it relates to Sunday opening. You must consider yourself quite fortunate, because there are people in your business in Kenora who are most anxious because of the tourists they have to turn away. I guess that may be partly the proximity of the number of tourists who actually are captive in Kenora versus those who will continue on their journey on their way through Sudbury and a variety of other factors. Do you consider yourself fortunate that you are in Sudbury?

Mr Michel: I think we are very fortunate. I have also been to Kenora, and I think that they have so much to do in Kenora, so many things to see in Kenora, that I do not see why they would want to be spending their time shopping in stores.

Mr Jackson: The point specifically that emerged was a study that overwhelmed everybody about the incredible amount of commerce that was generated by tourist dollars. No one had ever quantified that, and now having done it they realized how significant it was, and they have the Kenora experience of being open on Sundays and could measure the increased business, unlike province-wide statistics. In Sudbury it may have had a low impact, but in Kenora it had a very major impact. Do you go so far as to suggest that should be the standard across the province?

I sense in your second bullet point here, no pun intended, that you talk about being pleased about a new government but then figuring these are the same old group that are bending over again. Do you feel, as a northerner in this province, that Kenora should have the right to expose its markets to its higher tourism trade?

Mr Michel: I think it should have the right to expose its tourist market, and there are so many things that are tourist-

oriented. Okay, but I do not think grocery stores in Kenora should be open any more than here, or hardware stores.

Mr Jackson: I used to do a lot of camping, and I used to do a lot of trailer camping through northern Ontario when I was a boy, and I know that we just could not keep a lot of food in our camper at the time. We had to stop regularly to get food. On two occasions we lost a wheel. On one occasion we were fixed and could not move because we had to wait until the store opened. Once in Charlottetown I did not have the problem; it broke down on a Saturday night. Sunday morning I was able to present myself and get a new wheel and everything worked well. So as a traveller and a frequent tourist in this province, I see the value of having access to a grocery store—but I will not always get what I want.

Anyway, I appreciate your input and your brief, and as I said, I was a little nervous about that first point you made.

Mr Lessard: You have a small business, and there was a time that stores like yourself would have been able to open legally when the law was uncertain. Was there any time that you did open your store on Sunday?

Mr Michel: No, there was not.

Mr Lessard: If all stores were permitted to be open on an unrestricted basis, would you ever feel that you would be forced to reconsider your position on that?

Mr Michel: My feelings are quite strong on that. I would certainly give it some thought because Canadian Tire started opening on Sundays and some of the other hardware stores did open on Sunday, but I felt that anybody who really wants our service—there are an awful lot of people who come in for service in our business—will have to wait till Monday. That is all there is to it, because we are open 70 hours a week, and I spend almost 70 hours a week there, and I have some very good employees who can help people, and I think our business has gone up yearly even in the bad years, and I think it is because we are a service-oriented store. I think people appreciate that and will wait till Monday to come to our store for that reason.

Mr Lessard: Have you ever thought about how much it might cost or what sort of impact it might have on your business if you did find yourself forced to be open on Sunday?

Mr Michel: Yes. I think that our business would likely increase by 6% or 7%.

Mr Lessard: And what about your costs?

Mr Michel: Our costs would increase a bit, but I think we are one of the businesses which would likely profit from being open Sundays.

Mr Lessard: But you choose not to because there is more to it than just that for you.

Mr Michel: There is more to life than just work. I would have to be there most of the time, or my family; I have three sons who work with me. I feel there is more to life than just working. You have to say, "That's enough," and relax. I always work six days a week, and I am not going to work the seventh.

Mr Mills: Mr Michel, thank you very much for being here this afternoon. I have listened intently to your brief,

and I must say that the majority of it I agree with. I, too, support the philosophy of a family day to get together and rest. We also support your philosophy that there is more, absolutely more, to life than shopping. In fact, I find shopping one of the perhaps most stressful things I have to do. My wife now leaves me at home because we know that we will have an argument sooner or later.

I would just like to take up on page 2 that you have here about hiring staff. Everybody has been spouting off at length about giving the opportunity to people to work on the weekend. But I know that—I am not a Sunday shopper myself—many people whom I have discussions with claim and argue time and time again that really to go to a store on a Sunday is wasting their time because the expertise is not there. It is students, and I am not saying anything about students, but with one day there they obviously do not have the expertise to serve the customer well. So I am asking, who is the winner here? I cannot see any winner.

I would also like to take note of your paragraph 2, where you said you are happy to see a new government in Ontario that seems to have the guts to govern. I would like to qualify that. We do have the guts to govern and it is continuing and that is why we are here in this open process to listen to what folks like you say about this Bill 115. The Premier has made a commitment in the speech from the throne that we do recognize a common pause day, and that is enshrined in legislation. That is not up for grabs. We are just here to refine and define the draft regulation.

I notice also that you say you go to church on Sunday. I have not noticed any ministerial association from Sudbury being here telling us what all the church and all the church people like you think about this. So not having that before us, perhaps you could give me an idea of the number in the congregation you attend and how they feel about Sunday shopping.

Mr Michel: When Sunday shopping was an issue a couple of years ago, I did speak to several of the priests in my church, and at that time a brief had been made against Sunday shopping. I think many of the people in my church feel the same way: Sunday is the day they go to church, but also it is a day of leisure and all that sort of stuff. Then I do know some who would be out shopping every day if they could. But I think the majority would like to see no shopping and keep it a day of peace, a day of rest or whatever.

Mr Mills: Again, thank you very much.

The Acting Chair: Mr Michel, on behalf of the committee I would like to thank you for taking time out this afternoon and appearing before the committee.

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SAULT STE MARIE CHAMBER OF COMMERCE

The Acting Chair: I would like to call our next presenter, from the Sault Ste Marie Chamber of Commerce. Thank you for coming this afternoon. You will be allowed half an hour for your presentation. You can either make a full half-hour presentation or else submit a shorter presentation and allow time for questions and answers from each of the caucuses. Could you please identify yourself for the record and then proceed.

Mr Lajambe: I am Ken Lajambe, president of the Sault Ste Marie Chamber of Commerce in Sault Ste Marie, Ontario. I would like to thank you at the outset for the privilege of attending here today at this standing committee on administration of justice for the province. We appreciate the fact that we have people here from all parties, which I had not realized at the outset. So this cannot be an NDP-bashing because everybody is here, friends and colleagues of all parties; this is great.

Mr Carr: Bash us all.

Mr Lajambe: We have to make some decisions without consultation. The preamble to the Sunday shopping issue will contain, just to know it, the history of where we are coming from as a border community. So just bear with me. It is not onerous and it is not long.

As president of the Sault Ste Marie Chamber of Commerce and on behalf of our over 600 members—I should say that at this time two years ago it was 900—I am pleased to present our position on Sunday shopping. The chamber's membership represents a broad cross-section of the community and approximately 60% of our membership base is small business owners with one to five employees. We are not talking megacompanies here.

During 1988, the chamber of commerce conducted an extensive survey of the issue during the summer. To say the least, this was a controversial issue, with people both strongly in favour and strongly opposed. However, the majority of survey participants favoured Sunday retail openings in our community.

This left a lot of things unanswered in terms of what the members felt who were in opposition and who lost the battle. As in any other game, there are winners and there are losers. In this issue with the community, and particularly with the chamber, we lost a substantial number of members based on our stand on Sunday shopping. However, it was, as I say, in favour of taking that stand.

Subsequent to that, in 1989, the city passed a resolution allowing for Sunday shopping during the hours of 1 pm to 5 pm. During this time, most businesses have experienced positive results and in fact some business owners who were initially opposed to Sunday openings have since reversed their position and continue to derive significant revenue from this practice.

Sault Ste Marie, Ontario, is located on the Michigan border, as most of you know, and has experienced tremendous economic hardship as a result of cross-border shopping, which does indeed, in our view, tie in absolutely with the chaos of Sunday shopping. A study of the issue commissioned by the chamber through Ernst and Young, which was released in October 1990, indicated that over \$140 million in lost income annually accrued and over 1,000 jobs had been lost to date as a result of the cross-border shopping exodus.

The study also revealed, and certainly the government of the day would realize, that the purchase of gasoline was the primary reason for same-day trips to Sault Ste Marie, Michigan, as well as milk products. We have just noted that the Sault dairy producer, in terms of Beatrice Foods, is indeed closing in the Sault and it is going to operate out of

Sudbury. Good for this city. Sault Ste Marie, Michigan, businesses have been open on Sundays since I was a kid, I guess, and that is a long time ago. Some businesses in that city are also open 24 hours a day, seven days a week. That is how they survive.

We also know that when Canadian Sault businesses are closed on statutory holidays there is a flood of business to Sault Ste Marie, Michigan. That is evidenced every time there is a major holiday. The main purpose of their excursion from Canada to the US, of course, is to shop.

As you are also no doubt aware—if I knew you were aware, I would not even bring this up, so I have to assume some of you are not aware—the Sault has also suffered a drastic downturn in our local economy as a result of our primary employer, Algoma Steel; as its lengthy labour dispute in 1990 dragged on, the economy went in the same direction. The future of Canada's number three steel-maker—where we used to be at least number two—is very uncertain at this time. The company has attempted to restructure its enormous debt load, reduce costs and increase productivity, the essentials of any good business operation.

It is estimated that Algoma will have a direct impact on almost 20,000 persons in Sault Ste Marie, with the spinoffs resulting in the one-to-five loss, approximately 25% of our entire population. Our population base now is about 80,000. Should Algoma Steel not be successful in its restructuring bid, the community as a whole will suffer even more losses in the years to come.

However, we are not taking a defeatist attitude. In fact, we are attempting to develop an economic and social strategy that will ensure our community's survival in the long term. The RAPIDS process—which stands for research, action, promotion, infrastructure, delegate authority/tasks and support systems/resources—which Sudbury underwent some years back and which was picked up by our local government, is in place and has had its first consultative process completed and the report has now been written in terms of diversifying and looking to secure broadly based community input into how the Sault can diversify further. The plan should be complete by the end of 1991 and the chamber is hopeful this much-needed program will be successful indeed.

The issue at hand, Sunday shopping: We believe it is fair to say that the old adage does indeed apply: "If it ain't broke, don't fix it." Sunday shopping has had tremendous positive influences in our community. Aside from the fact that some people, churchgoers, church people, some segment of the labour force, did not agree with coming to work on Sundays—and who does?—Sudbury has a Sunday workday, Sault Ste Marie indeed has; any place where there is a large industrial base is a 24-hour-a-day operation, including paper mills in the Sault, steel mills, seamless tubes.

So having said that, any move to amend this legislation in our view would have dire economic ramifications for the Sault both in terms of lost revenue to business and increase in job losses, a situation that none of us here care to discuss and certainly do not accept.

Sault Ste Marie's employment insurance and welfare rolls are one of the highest in Ontario. We are not proud of this. If the Sunday shopping legislation were reversed, it would only serve to make an already bad situation even

worse, hearkening back to the fact that on statutory holidays, including Sundays, the exodus of people across the river before Sunday shopping was indeed measurable, which is kind of scary, in our view.

In addition, we take exception with the NDP government's proposed legislation that applications to municipalities for a tourist exemption to allow Sunday openings must have the support of the local chamber or convention and visitor bureau. We cannot really tie this to what was being said in the first instance. The responsibility that was assigned by this current government, without consultation—in our view, this is the first consulting process that I know of where we have had input into the legislation, which has already had first reading on June 4.

As well as placing a hell of a burden on the chamber by virtue of that, and violating the chamber's members' freedom of choice on this and any other issue, this requirement would leave the chamber and convention and visitor bureaus possibly open to legal considerations from retailers whose applications do not receive the support of either the chamber, the convention bureau or the municipality.

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A central element of the proposed legislation is the tourist exemption criteria. These criteria are widely considered to be unworkable, unenforceable and open to abuse, but an additional concern is that the tourist criteria, while holding the weight of the law, are closeted in the bill's regulations, in the latter part. As a result, the NDP government can alter key aspects of the law without public input or legislative review.

Recognizing the complexity of the tourist criteria—and I feel they are not only complex but open to a lot of interpretation by a lot of different interest groups about a lot of different things—the NDP is privately developing guidelines for their administration which will support what the intent probably was in the legislation, which is fine. I have no argument with that, except that seems to be the way that is going. While these guidelines contain information essential to retailers, such as the definition of a tourist, the NDP has, to date, not consulted with affected parties. We believe that full consideration and public review of these guidelines are vital if the complete impact of the government's amendments is to be fully understood, and supported in the long term, if that becomes necessary, to have that type of input and agreement before the legislation is given its final reading.

In conclusion, the Sault chamber of commerce supports the city of Sault Ste Marie's position—and I extend the regrets of the mayor in that he was not able to be here today; he will be attending a similar conference in Toronto on August 29—and we strongly urge the province of Ontario to maintain the existing legislation which permits such openings. I thank you for the opportunity to provide the written comments today.

In a personal vein, if I may, we were concerned about the location of this hearing. We felt that it should have been held in Sault Ste Marie. It is a city that is suffering economically. It is a city that has a good, working Sunday shopping bylaw, and we felt very strongly—the mayor will be reiterating this in Toronto, I am sure—that it should

have been held in a place which has had some success in the factor, and cross-border shopping cannot be divorced in our case from the issue of Sunday shopping. It has its place, and we were disheartened, I think, by the fact that the reason given for not holding it in the Sault was because of the possible mixup in terms of the understanding of one to the other, cross-border and Sunday shopping.

I think the Premier of the day indicated some time ago that consultation would be the vehicle that brought people together, and we honestly do not feel that we are on the NDP's agenda, as business people. We have not had a chance to see any evidence of that. We did the cross-border review two weeks ago with all members of government—the feds, provincial, municipal and the mayors—and still did not get the kind of feeling that we have a together situation with business, and that is scary. It is scary to us because we do not know where the hell to turn. We might as well have targets all over our body as business people. Everybody is firing at us and they are all hitting us in different places. We cannot continue.

This is a very major vehicle and we need a reconsideration of the bill, and how the hell we bring it about when it has already had a first reading—and maybe that is the way it goes before it is up for consultation, but we have a major concern of reversing the tide of those who did not support Sunday shopping in Sault Ste Marie in the first instance having turned full circle and there is very little opposition.

And you know what? New Democrats in particular, whose main concern is the welfare of people, aside from business people—there is not a cry from the union about the Sunday shopping. There are jobs available in a store six days a week. There are a certain number of people in a store seven days a week. There is an added number of people; I do not give a damn how you count the bodies. I do not know if there are union people here in opposition to this or in support of it or not and I care less. The position of the business community is that we think, in the best interests of all parties, it does provide some more employment in terms of just manning Sundays. We know that in the bill is contained a section which protects the worker's right to refuse work, for whatever reason, to be determined, the same as in the health and welfare act, and the bottom line of it all is, from our perspective in the Sault—and we are surrounded by New Democrats, ministers and all. We have access to them fairly easily—I am asking you to reconsider, in the light of the fact that we are successful—and I do not know what anybody else here has said about this issue—we are strongly opposed and wish we had had more consultation prior to even getting to this step.

The Acting Chair: We have about five minutes for each caucus. Mr Sorbara.

Mr Sorbara: Let me thank you first for a very eloquent and passionate plea. Our view as well is that there should be a reconsideration of the bill.

I do not think you should be offering regrets on behalf of the mayor for not being here. I am constrained to tell you, sir, that the opposition members on this committee pleaded with the government members to hold hearings in Sault Ste Marie. A motion was presented to this committee to that effect and

that motion was voted down by the government members. We regret that, sir, and we take no part in that.

I think the example of Sault Ste Marie probably represents the very best evidence that the bill before us here is not well advised. The reason I say that is because whenever a government is proposing a law, what it would really like to have is some sense of how the world is going to look after the law is passed. In most instances you do not know that. In most instances you can only speculate. You can have your researchers come up with models if you raise the minimum wage by 10% or 15% or 20%, but you really do not know. But in the case of Bill 115 the reality is that we had a few examples around Ontario about the way in which the world would look if the government simply allowed storekeepers and consumers to determine the extent to which Sunday shopping would be a reality. The Sault Ste Marie example is, I think, the model we have to look at to determine where we need to go on Sunday shopping.

Your submissions with respect to employment are crucial to our consideration of this bill. There is no community in Ontario that has suffered as much in its retail sector as Sault Ste Marie. Our caucus had committee hearings there and it was absolutely clear that just the differential in the cost of gasoline was bringing people across the borders, and they were doing the rest of their shopping while they were there.

The fact that you state unequivocally that Sunday shopping can add at least marginally to overall employment in a community like Sault Ste Marie is uncontroverted. It is my hope that the government members, and the trade union movement in particular, get a sense that although it is not going to solve our retail problems and although it is not going to solve our competitive problems, it will help a little bit.

You have now had an experience with a law that required all stores to be closed and you have had an experience with allowing the marketplace to set the times and set the rules. Can you just give us a few more details on how that is assisted in a marketplace in an economy which is under very severe pressure?

Mr Lajambe: I guess those who did not support it and those who did support it have a parallel process, and they were the larger stores in one case and the larger stores in the other case. The Canadian Tire on one side and the lumber industry on the other did not want to support it in the initial stages. What it has done is it has brought the have-nots on side. Sears, for instance, is another one that was not for this in the first instance, and that is a major anchor in our biggest mall, as you know. They had to have things proven, as did all the market merchants. In the malls they have a direct measurable device that can determine the added impact of Sunday shopping. They would have shopped some other day, but they chose to go there on Sunday because it was open. This is new money we are talking about, which is easily determined in the malls. The advantage of that concept of the big and the small—and I do not know what the evolution of it was in terms of time, but all I can tell you now is that all of these people are on side. In a store the size of Canadian Tire, the owner suggested that 60 added employees per month would be required.

Mr Sorbara: Sixty added employees per month?

Mr Lajambe: Per month. That is weekdays. That is 60 people for a week each month. That is 300 man-days. That is what he estimated for his store. That varies from Sears to the corner store selling trinkets, which is the tourism criterion. The impact has been excellent.

1520

Mr Carr: Thank you very much for your presentation. I appreciate your coming the distance. I just wanted to say that I myself and Charles Harnick, who is on the committee also, wanted to go to Sault Ste Marie but we were voted down by the government side. We are going to miss that opportunity but hope we will get a chance on one of the other committees.

The situation is such now that we have heard in varying degrees from chambers. The one in Sudbury is not interested in opening and some of the others are. The other communities we have been to so far have been in favour of opening and have some real concerns with the legislation.

What would you like to say to the government members who say they believe they know better than you do in your community about what the economic impact will be and they feel you should not have the right to open? What would you like to say to the government members who feel they know better about your business in your area than you do?

Mr Lajambe: I am going to assume that no one here has said that. I am going to hope they have not said that.

Mr O'Connor: No, there has not been, actually. He likes to keep saying that.

Mr Carr: Seriously, though, this says that. The bill says that, I guess. That is what I am referring to. I have to have enough confidence that surely to God we are not here for nothing. I sat at a Liberal caucus meeting—not a caucus meeting, but just some people who were up in the Sault. One of them was an organizer and there was another ex-MP talking—no names—but this guy was sitting there and the MP was sitting here talking about all the things that were wrong with the economy. This young lad was really not paying attention, so the ex-member says: "You're not listening because your eyes are glazed. I can tell. Your eyes are glazed. You're not listening." There are no glazed eyes here, I hope.

We have to be cognizant of the fact that if we do not have a team effort we are licked, and you are going to be licked too in three and a half years. If we do not get some new listening devices here, we are going to have a hell of a time working together. Bob Rae said he was going to work with the business community. Damn it, we do not want to have to work in spite of him. If we are going to work together, we had better start doing it, because I think we are being throttled till we are God-damned nearly out of breath as a business community. I speak for the business people, not just for our community. We have got to understand that social justice is just straight and we are all part of it, but boy, we have to look after the people who pay the bills. If we do not, we will not need any of these sitdowns.

Mr Jackson: Briefly, I appreciate the perspective you bring so forcefully and I am looking forward to meeting your mayor again at his presentation in Toronto. You made

some references to the attitude of the Sault Ste Marie and District Labour Council. I wanted to check, have they made any overture about making a presentation, or do we have any presentation at all anticipated from them? Could you just expand a bit on what their attitude and concerns are in your area on this issue?

Mr Lajambe: I cannot speak when I did not refer to the labour council. I said I have not heard one word from the unions per se about Sunday shopping.

Mr Jackson: We have not either.

Mr Lajambe: I have to assume the results of that are fairly satisfactory. From a brain sense, I think if it meant more people working, it has got to be satisfactory or acceptable. In Sault Ste Marie, we are a shift workers' town. We have been like that for ever. We are not in the 1800s where you did things on Sundays like they did then in terms of church, in terms of visiting, in terms of family gatherings. They do it now whenever in hell they are off work. Monday and Tuesday and Wednesday is not much different to the shift worker. I think Tony, who is one of our members and has worked fairly closely with us, would support the fact that we have had, in my view, not one word from the union, one way or the other, in Sault Ste Marie about Sunday shopping.

Mr Poirier: What do you say, Tony?

Interjection.

Mr Jackson: I am anxious to get an answer. It is his riding and I would be most anxious to hear him comment on it. I do not want us to write the labour council and say, "Hey, give us your opinion," but its silence is being interpreted at the moment. Anything would be helpful.

Mr Martin: I would suggest to you that the union's energy is being focused at the moment on something of a more crucial nature, which is the Algoma Steel situation and all that entails. They usually have an opinion on everything that affects their membership and they are not afraid to say it. I do not think there is a group in Sault Ste Marie that is afraid to stand up and say its bit about things it feels strongly.

On this one, Sault Ste Marie has been able, over the last few years, to come up with a compromise that it felt was good. Because of that compromise, people are not energized by the present legislation in the way that they would have been, say, maybe three or four years ago when there was no Sunday shopping allowed in Sault Ste Marie. Those two things might explain perhaps the reason that the union's energy at the moment is focused on Algoma Steel and trying to get that one resolved and the fact that I think probably most people in the Sault feel at the moment they have a compromise that is working. Within the limits of this present legislation, it may still work.

They are probably confident that we can put something in place with the chamber's voice and the mayor's voice and my voice that will represent the views of that community in an adequate way.

The Acting Chair: Did you have further questions?

Mr Martin: Yes, I did. I wanted to say to Ken as well, it is always nice to see you. It is nice to see you again here from the Sault today and for taking the time to drive this far.

I certainly had no objection to the committee coming to Sault Ste Marie. My understanding of why they did not come was because they were trying to hit a cross-section of communities because it is not, in fact, a cross-border shopping issue although it does have a tremendous influence on that whole phenomenon, and both you and I would agree on that. They are going to Windsor, which is a community which is experiencing a similar, very difficult time at the moment because of the phenomenon of cross-border shopping.

I also wanted to start out by saying to you, because obviously you are not hearing it, that this government does want to work in co-operation and in partnership with the business community. If you look actually at some of the legislation that has come down in the last while, it has been tempered by the voice of business and its concerns.

I can speak confidently from the government's perspective to say that is why we are here today. We see the issue of Sunday shopping as one that is of great interest to the whole province. We are out here trying to get as much information as we can around the proposed legislation that we have brought to the government in the form of first reading, and we certainly do intend, with non-glazed eyes, to hear you and seriously take into account everything you have to say.

I personally have committed, as I have in the last year, to meeting with you and the chamber on a regular basis.

I think it is important for the whole committee to understand that Sault Ste Marie has Sunday shopping, but it was a compromise that it arrived at through some very heated discussion. I marched on city hall with my family opposed to Sunday shopping two years ago, and since then have actually shopped on Sunday with my family and have come to understand the convenience of being able to go out and perhaps get some medication for my children or a loaf of bread or whatever on a Sunday afternoon.

The important point here is that Sault St Marie arrived at a compromise after much discussion that satisfied I think most people. That is what we are about here today. We recognize that a large percentage of people want a common pause day in this province. We want to recognize the uniqueness of areas that are almost totally dependent on tourism for their economy, and also the right of workers to be able to say no to working on Sunday.

The regulations are here for you to look at and if you do not have a copy of them I can certainly get it for you so that we might look at that. After reading it myself, I think there is room for us in Sault Ste Marie to look at this and perhaps even fit in, being creative and courageous as we have in the past.

In the discussions that happened in Sault Ste Marie, there was a question of the need of the larger store to compete with the entity across the river. There was also the need of the smaller store to compete with the larger store, because when they opened on Sunday the little neighbourhood, family-type stores—I had one of my staff go around and talk to those folks recently—are struggling

even more than the larger stores in this cross-border shopping challenge.

Have you done a recent survey of the smaller stores and how they are feeling at the moment re that question of competing with the bigger stores on Sunday?

Mr Lajambe: We have not done that in terms of formal survey. The chamber listens to business. We talked to 400 out of our 600 members about all those kinds of things, but it was not a measurable device. It was, "Are you satisfied with what's happening with Sunday shopping?" I do not have the number here but it was exceptionally high, those who were satisfied with the action taken by the chamber vis-à-vis Sunday shopping.

I do know that the participation has increased dramatically, but I do not know what that relationship is, big to small, and how they fare with that, unfortunately.

Mr Sorbara: There are a couple of comments that I am constrained to make arising from Mr Martin's remarks. I am sorry to see him leaving the room. I consider him to be an MPP of very great integrity, but two things need to be pointed out.

I imagine that Mr Martin was not consulted, but we tried desperately to get the government members to agree to have a day in Sault Ste Marie, and indeed it had nothing to do with the inability of flights or travel arrangements. It was, as it appeared to us, a clear decision on the part of the government members, and I presume the government, that they would hold hearings in only one border community.

I think Mr Martin is right, that this committee should have been in Sault Ste Marie, and we would have liked to have been there.

The second point to make is I agree with him that Sault Ste Marie has worked hard to work out a good and reasonable compromise that matches the needs for the Sault community. That is important and that is good politics, but the reality is that they have done it under a bill that provides them the opportunity to do that. That is the local option.

Mr Martin: On a point of order, Mr Chairman: Is Mr Sorbara speaking on a point of order or do we all get a chance to make a speech here?

Interjection: We will all get a chance of course. He is a good Chair.

Mr Sorbara: I do not mind. I would like to hear those speeches.

The Acting Chair: Seeing no other business before the committee—

Mr Fletcher: On a point of order, Mr Chairman: As far as the committee travelling around the province is concerned, we are spending four weeks of travelling in the north, the east, the west and southwestern part of the province. We are hitting cross-border communities. We are hitting tourist areas. We are hitting industrial areas. The committee voted, as a democratic committee should. The subcommittee first brought in a report and then tried to change the report of the subcommittee which is made up of all-party members.

It was just, as far as I am concerned, an attempt, as we see today, to bring attention to the fact that we did not hit every community that was out there.

The Acting Chair: You do not have a point. Thank you for the information though.

Mr Fletcher: I think the committee recognizes this as caucus politics.

Mr Jackson: If I am being asked to comment, it is quite routine for committee members to individually request to have their city represented. This is not uncommon. If Mr Martin recommended to his caucus that his city be included, and it was not included, that is where it falls and that is where it ends. If he failed to do that, that is his business, but it is quite routine for committees to vote down various locations. I would like to indicate that implying motive for requesting cities or the turning down of cities is inappropriate discussion.

Mr Martin: I did not request that the committee come to the Sault. When I was consulted when the discussion was on, I was asked whether I had any problem. I said no and I understood why they decided not to come. The other thing I would like to raise is that two other committees travelling this summer are hitting the Sault, so we are being consulted by this government in a significant way, not on this issue, because we feel that our voice will be heard through Mr Lajambe and the mayor and in Windsor.

The Acting Chair: Thanks for that point of information.

I would like to thank the city of Sudbury for hosting this committee. Seeing no other business, we will adjourn until 9:30 a.m. tomorrow at the Pinewood Park Inn in North Bay.

The committee adjourned at 1533.

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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

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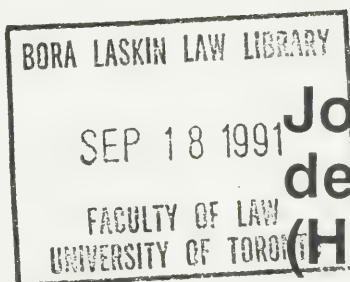
First Session, 35th Parliament

Assemblée législative de l'Ontario

Première session, 35^e législature

Official Report of Debates (Hansard)

Thursday 8 August 1991



Journal des débats (Hansard)

Le jeudi 8 août 1991

Standing committee on administration of justice

Retail Business Establishments
Statute Law Amendment Act, 1991

Comité permanent de l'administration de la justice

Loi de 1991 modifiant des lois
en ce qui concerne
les établissements de commerce
de détail

Chair: Drummond White
Clerk: Lisa Freedman

Président : Drummond White
Greffier : Lisa Freedman

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday 8 August 1991

The committee met at 0936 in the Pinewood Park Inn, North Bay.

RETAIL BUSINESS ESTABLISHMENTS STATUTE LAW AMENDMENT ACT, 1991

LOI DE 1991 MODIFIANT DES LOIS EN CE QUI CONCERNE LES ÉTABLISSEMENTS DE COMMERCE DE DÉTAIL

Resuming consideration of Bill 115, An Act to amend the Retail Business Holidays Act and the Employment Standards Act in respect of the opening of retail business establishments and employment in them.

Reprise de l'étude du projet de loi 115, Loi modifiant la Loi sur les jours fériés dans le commerce de détail et la Loi sur les normes d'emploi en ce qui concerne l'ouverture des établissements de commerce de détail et l'emploi dans ces établissements.

The Acting Chair (Mr Cooper): I would like to call to order the standing committee on administration of justice, studying Bill 115, the Retail Business Establishments Statute Law Amendment Act. I welcome everyone to the great city of North Bay.

CITY OF NORTH BAY

The Acting Chair: I call on the first presenter from the city of North Bay, Mayor Stan Lawlor. Good morning. You will be given a half-hour for your presentation. You can either give a full half-hour presentation or a shorter brief and then allow questions and comments from each of the caucuses. Please identify yourself for the record and then proceed.

Mr Lawlor: I am Stan Lawlor, mayor of the city of North Bay. First of all, I am pleased to be here and I am pleased to see the committee make the rounds of the province giving an opportunity to have input as to the variety of views—and certainly there are, I recognize, a variety of views—on this issue, a controversial one. Some of the views that will be represented, I am sure, emphasize the issues of economic viability and competitiveness with regard to cross-border shopping, certainly a critical issue. Some others will perhaps focus on some more traditional issues.

Recognizing that North Bay is not a border community, and recognizing that we have reached some consensus within the community on this issue, I feel I can claim quite confidently that I do represent a predominant consensus of the North Bay community when I say our community is not in favour of what I would call wide-open Sunday shopping for our community.

Now, I realize there were some communities that were very concerned about being left with the responsibility of making decisions as to whether or not they would have to play a role—that is, councils making decisions—in deciding whether there would be wide-open Sunday shopping in their

communities. Our community is not one of those. We are prepared, given that opportunity, to make that decision for our community. We feel that in this area, along with many others, it is a valid function and a necessary function in order to promote the values that appear to have an acceptance and support within the community. Perhaps I can review, then, a few of the ideas I feel would be important in arriving at the reasons for those statements.

The decision to live in a community such as North Bay, with a population of 50,000 and, as you know, the second-largest city in Ontario, exceeded only by Timmins in area, is made by people for a reason. That reason is, and some of your people even said it getting off the plane and arriving in North Bay today, the pace of life. The pace of life in a community such as North Bay is different from the pace of life in Toronto. It is different from the pace of life in, for example, Hamilton or any of the larger centres, even London. In order to preserve that pace of life and the attractiveness of North Bay—and, by the way, it even makes it attractive for many people who are looking for locations for industry, looking for locations to work; some of the correctional services people have found the same thing in the relocation to North Bay when the ministry was relocated here—we have to subscribe to the values that have brought us to this stage. One of those is the concept of the weekend.

The weekend is a time, in our view, when people get a chance to get a rest, to look forward to going back renewed to the busy pace that perhaps prevails at the workplace. There was a situation 50 years ago in which people were fighting for the 40-hour week. At that time, the week was more like an 80-hour week. Through a variety of labour legislation measures, the 40-hour week has become a reality, and indeed the 35-hour week has become a reality. It seems to us that unless there is some way you can increase the amount of money that is available, or the amount of business that is going to be conducted, spreading five or six days out into seven is not really going to achieve much by way of improving our economy. Our own experience in dealing with businesses is that it has not increased employment. What happened, when the courts struck down the legislation, is that they have opened a little later in the morning during the week, they have closed a little earlier at night and they have made the same number of people in the same number of hours stretch into the Sunday period. It has not had the effect of increasing employment.

As well, we have found that the Sunday shopping has not really resulted in any more business for the stores. The stores that really would look forward to Sunday shopping would be the large department stores. Of course in our case, not having a Sears or an Eatons or any of those stores, we are dealing with what we call the junior department stores—Zellers, Woolco, Towers in the past, and so on. In the local area, the consensus of these stores was,

"As long as nobody opens, we won't open either." So it became a situation where we started negotiating with the various stores to gain support from their head offices to remain closed. The only one we could not break, unfortunately, was Zellers.

I want to tell you that at this time last year, on July 22, between that period and four or five weeks on either side of it, when open Sunday shopping became a reality, there were major demonstrations such as I had not seen in North Bay on the part of people who were opposing Sunday shopping in the community. Now, I am not telling you that people will not go out and shop on Sunday. They will. But if you talk to them, and people from the media did, they say: "If they're open, we'll go out and shop, but it's not a really big deal for us. It's not something that we really want in such a way that we're going to go to the ends of the earth for it. If it's there, we'll take it. If it's not, then we'll do other things on Sunday." What is the reason, then, we would argue in favour of a local option to be able to make a decision ourselves as to what is good for our community? The answer is because, as in so many other areas, we oppose the TBS syndrome, we oppose the Toronto-based-solution syndrome—"If it's good for Toronto, then it's good for the entire province."

We have seen too much of that. We have seen it in planning. We have seen it in legislation in highways, in terms of signage on highways. We have seen it in so many areas that we are saying: "We are small-town Ontario. We are a community that lives by a set of values and we are prepared to subscribe to what is required in order to make those values work." The family concept that we promote, that this is a good place to bring up families, that it is a good place to maintain a healthy family structure, requires that we have some ability to be able to set a day when most people—and I realize there are essential services, and I realize there are some shift workers who inevitably work on Sunday—can look forward to the opportunity of being able to get together with families and do the things families do when they get such time to get together.

Those are some of the predominant views, ladies and gentlemen, that exist in this community. I again emphasize that I can claim, I think with confidence, to speak for the predominant consensus that exists within the community. I feel that when we look at what we have done with regard to the development of our community over the past 10 years or so, and some of you who were familiar with it before, will realize that we really have not done that badly. We are not a community that is concerned about what goes on in neighbouring communities. As well, by the way, I realize that some cross-border problems exist, but in some southern Ontario communities there may be a concern about what is happening in the neighbouring community.

If Sudbury were to choose—and, by the way, they have not chosen to do so—to open on Sunday, that would not be a concern to us. Nor would Sturgeon Falls, Timmins or any of the other communities be a concern. We are prepared to recognize that there are other needs in other parts of the province. We are not asking to impose what is good for North Bay on the rest of the province, but we are asking to have an opportunity to decide what is good for North Bay

should it be the view that Sunday shopping is either necessary or beneficial for other areas of Ontario.

The Acting Chair: Thank you. That leaves about five minutes for each caucus.

Mr Sorbara: Thank you, Mayor Lawlor, and congratulations on being able to manage a rather delicate issue in the community of North Bay, an issue that is sometimes contentious.

I want to put it to you that in this debate on Sunday shopping there are really four models that have grasped our attention. Some of those models have been in force for a while, for a period of time.

The first is the model where there is no regulation whatever of Sunday shopping, neither by the municipality nor by the provincial government. For the period of time when the court struck down Bill 113, that was the model that was in place all around the province.

The second model existed under Bill 113; that is to say, stores were required to stay closed on Sunday, save and except that a municipality had the unrestricted right to vary that to whatever extent that municipality chose to vary it. That is the Bill 113 model.

Third is the model we are considering under Bill 115. Under that model stores are required to stay closed, but municipalities have a much narrower right to allow stores to open; that is, municipalities can act so long as they comply with the law and the regulations relating to tourism, the promotion and development of tourism. In that model stores are closed. They can open, however, under the authority of a municipality if the provincial criteria are met.

The fourth is, in a sense, the model of the past, where under no circumstances can stores open, with a very few exceptions. It is sort of the Lord's Day Alliance model, where basically there is no shopping on Sunday.

I think I have set out the spectrum for you. Just to review them, they are Bill 113, Bill 115 and the Lord's Day Alliance model. As mayor, which model do you prefer?

Mr Lawlor: Bill 113 would be my preference, with Bill 115 as second.

Mr Sorbara: Right. Bill 113 gives the municipality unrestricted options to vary according to local flavours.

Mr Lawlor: My reason for that is that I feel 113 will tie the applicant who wants to open up in less legalese, less expense and less problem in terms of trying to find out how you approach this complexity. That would be the major reason for my choice of 113 over 115, but 115 is a close second.

Mr Sorbara: Is it not the case that 113 avoids the problem that you identified, and that is TBS, the Toronto-based syndrome?

Mr Lawlor: That is correct.

Mr Sorbara: It allows you to create the variant that you want in this community. I want to put it to you that 115 comes pretty close to imposing yet another Toronto-based syndrome, because it restricts you to tourism criteria, tourism criteria that are basically made at Queen's Park and made in Toronto, and adds to the businesses in this community a pretty hefty administrative burden in applications and application fees and, important for you, the time of council of

the city of North Bay to deal with all of those applications. Do you have any comment on that?

Mr Lawlor: I agree with what you say. Of course the question that arises in the case of 115 is, if you establish that you meet those criteria, much in the case of a court, if you can meet the criteria, then do you have a guarantee of being open? I do not know for sure what the answer to that is in 115, but there are occasions in which we would say we do not feel it is in the best interest of the community as opposed to looking at what is in the best interests of the applicant.

Mr Sorbara: So you would want the ability, from time to time—

Mr Lawlor: Discretionary ability.

Mr Sorbara: —to vary according to the way in which circumstances develop. Is it safe—

The Acting Chair: Thank you, Mr Sorbara. Mr Carr.

Mr Carr: Thank you very much, Mr Lawlor, for coming out this morning. You definitely have a very lovely community. The question I have is this: We have had an opportunity to go around to some of the smaller communities. You talk about the Toronto-based solution. We heard from people in Collingwood who said they voted—I believe it was 9-0—that they will take the tourist exemption. Thunder Bay says they will be open. Sudbury says they will not be open. Kenora says they will be. So what we are going to see is not a Toronto-based solution. You are going to have communities opening up and some of them not. I was wondering if you see any pressure on your community. If in fact a neighbouring municipality chooses to open up, and with this being such a big tourist area, do you see a lot of pressure on your community to follow along with it? How would you be able to stop that in terms of stopping people from wanting the Sunday openings as a result of the next neighbour having it?

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Mr Lawlor: Our experience has not been that we have had that pressure. Actually, I might mention an interesting example to you. About three or four years ago, maybe three years ago, there was a case of a Boxing Day opening on Sunday. If you recall, Boxing Day came on Sunday. What I did was, I invited the people from all of the major shopping areas in the community, and there are seven of them—the majors; I am talking about malls, etc—to get together with me and to sit down and come up with a consensus that they would all close.

In the end we had one, and it turned out that it was Zellers that was not co-operating and we could not get it to agree. We sat down long enough to emphasize that the media were sitting outside waiting for the answer and was Zellers going to be the spoiler. The manager at the Zellers store said, "Just give me one last chance to make a call," and we were the only area in the province in which a community consensus was arrived at in which there was closing. There were stores open in many other communities around the area, and the same kind of thing happened after Bill 113 was struck down.

It is not a major concern to us, probably for two reasons. One is distance, as you can appreciate. The other one

is that if you feel strongly enough about a value or a commitment, then you have to stick by it. My belief is, on matters of principle you stand like an oak and on matters of taste you bend like a reed. This is a principle.

Mr Jackson: I listened to your presentation and maybe I missed exactly the North Bay experience. When you had your own municipal option you chose not to go with it.

Mr Lawlor: Yes.

Mr Jackson: What was your experience when the law was struck down and what was the frequency of extended shopping?

Mr Lawlor: Our experience was that some of the larger stores started to open up. Many of the smaller stores within the mall wanted to have an option to stay closed and there was great controversy over that. Some of the malls said: "It's part of the contract that you're open whenever the mall is open. If you don't open that violates your lease and we insist that you abide by the lease." Of course, that was tested as well and it ended up that the ones that wanted to stay closed in some cases did.

Then we got into the issue at one point, "Well, nobody's going to lose their job if they refuse to work on Sunday." That is simply a crock, because as far as I am concerned, a person who is running a store, if you are going to lose your job or if you are going to get the bad shifts or if you are going to get the short hours, there are many ways of doing it if you refuse to abide by what is expected of you as opposed to what is required of you.

Mr Jackson: Do you feel that the current legislation or the past legislation protected workers sufficiently?

Mr Lawlor: I do not think past legislation has protected them as it related to the claim that you had the personal option of choosing or not choosing to work on Sunday.

Mr Jackson: And the current legislation?

Mr Lawlor: I suspect not, but it is harder to say because, in my view, it has not been given sufficient time to—

Mr Jackson: My final question would be, given your sense of the community and your council—and by "your community" I also would include the tourist and commercial-tourist interests in your extended regional area—what do you think a vote of council might be?

Mr Lawlor: Vote of council would be 11-0 in favour of Sunday closing. The tourists who come here do not come with the predominant reason to shop. They want convenient shopping, like a milk store or Shoppers Drug Mart for necessities. As you know, in the past some of those have been open based on a variety of factors relating to the number of people working and the square footage associated with it. But they are not coming here predominantly to shop. They are coming here predominantly for the recreational experience.

Mr Fletcher: It is a very nice community. It is a pleasure to be here. Just a couple of questions. As you know, this government is committed to a common pause day and one of the things that we are trying to ensure is the protection of the people who usually have to work in a store. You agree that workers should have that protection.

Mr Lawlor: I do, but you have raised a new name now and that is a common pause day, which really does not achieve the goal that I am setting out to achieve. I am talking about a common day of rest, when the entire community settles on a day and as many people as possible can set that out as the day that is prescribed. If you are going to have any day of the week picked when somebody is going to be off, and I do not know if that is exactly what you mean in your comment, then that really does not achieve the goal that I am attempting to achieve.

Mr Fletcher: As far as the tourist exemption is concerned, you know your community so well, and obviously the people have a lot of respect for you. They have put you into office. If the tourist people approached city council, your council, and said, "We meet all the criteria. We'd like to have some exemptions for some of the marinas" or what have you, you would have to look at that. Would you think that the decision would still be 11-0?

Mr Lawlor: We would look at an argument based on the need and the season and determine if it was considered to be a necessary service or a service that was going to be in the interest of the community, but I would not judge it on the basis of the interests of the applicant. I would judge it on the basis of the interests of the community.

Mr Fletcher: Of the geographic area?

Mr Lawlor: Yes.

Mr Fletcher: So the tourist exemption still leaves you with the option to make the decision.

Mr Lawlor: It leaves us with that option. I think it would require some persuasive arguments to adopt it, but it would leave us with that option, and that is why I think in the rest of the province there may be cogent and persuasive arguments for Sunday opening.

Mr Fletcher: Just one more point and this is more of a comment than anything else. You know we have been going throughout the province, in northern Ontario, and people sitting opposite and some of the people who have presented have said that a common pause day or a day off for people is out of step; it is old-fashioned. The way I look at it is with the family values and the way people are always talking about, "We have to get back to the family roots." I would rather be old-fashioned and out of step if that is what it takes.

Mr Lawlor: I will take that as a rhetorical comment and agree with it.

Mr Sutherland: Mr Lawlor, it is a pleasure to be here in your community, and you have done such a good sales job that it almost makes me want to move here to North Bay. Just based on your comments, we can take it to assume that you do not believe that a shopping mall is a tourist attraction.

Mr Lawlor: No. If that is our tourist attraction, then, boy, we are in trouble.

Mr Sutherland: You feel comfortable, then, with the tourist exemptions there. North Bay in some ways is a bit of a regional centre as well in that way and there is enough flexibility there to allow North Bay not to be out of step with some of its neighbouring municipalities.

Mr Lawlor: That is correct. You see, my argument is this: If people are coming to North Bay for a vacation or recreation, they are coming for what we can offer, and in the winter, we offer them cross-country and downhill skiing, snowmobiling or whatever. In the summer we will offer canoeing, we will offer them trips on the Chief Commanda and hiking trails—we will offer them a variety of recreational opportunities there. Our job is to build upon those resources so that we really do have them going home and saying, "You know, I was in North Bay, I was in the Nipissing area, and I did something very, very different," rather than saying, "I went there and I went to the mall, and if I were home, I'd have gone to the mall, too." So we are looking to make it a genuine vacation experience.

The Acting Chair: Mayor Lawlor, on behalf of this committee I would thank you for taking time out this morning and coming and giving your presentation.

Mr Lawlor: I thank you, gentlemen and ladies. It has been a pleasure.

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DISTRICT MUNICIPALITY OF MUSKOKA

The Acting Chair: For everybody's information, at 11:30 we will have the Elk Lake and District Chamber of Commerce.

Right now I would like to call forward the next presenter from the district municipality of Muskoka. Could you please take a seat? You will be given half an hour to do your presentation. You can either take the full half-hour for your presentation or you can submit a shorter presentation to allow questions and comments from each of the caucuses. Could you please identify yourself for the record and then proceed.

Mr Royston: My name is David Royston and I am the district solicitor with the district municipality of Muskoka. Some of you may or may not be familiar with Muskoka. It is an upper-tier government that covers basically the area from the Severn River to approximately 10 or 15 miles north of Huntsville. It also runs from Georgian Bay almost over to Algonquin Park on the east. To many people, we are referred to as cottage country or tourist country or fun country. Euphemisms of that nature are generally used to describe the district of Muskoka.

I am here today to talk about Bill 115 and the common pause day in particular. I have put together a written submission on behalf of the district of Muskoka which I think highlights a number of the concerns that are prevalent in our area. I am not going to read that to you this morning—I believe you can read that on your own time—but I would like you to take note of page 8. At page 8 there is a brief summary as to the three positions I would like to touch on here today.

The first position, and it is the one that is perhaps the strongest and most prevalent in the district of Muskoka, is that the common pause day in today's society is both inappropriate and impractical. While we do support the retention of certain specified holidays, for example the 10 or 12 listed in clause 1(1)(a) of the act itself, the concept of a weekly pause day is just not appropriate in today's society.

With that in mind, we suggest that the concept be disbanded, and that, with respect to the other holidays in question, municipalities have a clear option to determine whether they wish to opt out of the holiday. The one that always comes to mind is Boxing Day. Boxing Day sales are prevalent throughout this province, and municipalities should have the opportunity to determine whether such events are possible in their areas without regard to any suggested criteria.

The second position, if you are not persuaded that the common pause day is inappropriate, is simply retention of the status quo—in other words, Bill 113. We have had extensive experience with Sunday shopping over an extended period of time. I am personally familiar with Sunday shopping in Muskoka over approximately a 20-year period, and that goes back to what I will call the olden days, when all the shopkeepers voluntarily closed on Mondays in the winter because it was simply the convention. There was no law that said they had to do so; it was simply the community convention, and it was the way it was.

Everybody is familiar with the civic holiday in August. There were many places in Muskoka that chose to take their civic holiday in September, because the idea was that the tourist season was during the summer. Everybody had to be available and open during the summer season, and as a result the civic holiday was taken in September. It was great for us school kids; we got an extra holiday in September.

We have seen an evolution of that, though. Along came the Retail Business Holidays Act, and the district of Muskoka passed a bylaw, bylaw 8753, which provided a variety of touristy-type exemptions. These were things like bait shops and art galleries, and things like that that are attributable to the tourist trade, and that was only slightly workable. The reason that I say only slightly workable is because any attempt to categorize business on the basis of class of customer, on the basis of product line, or on the basis of number of employees just is not workable.

In my position I get the opportunity to review a lot of the Sunday shopping stuff. People phone me regularly, mostly businessmen inquiring whether they are entitled to be open on a particular holiday, and the thing that was very quickly discovered was that almost every business does not fall squarely within any given category. It is impossible to create a series of workable categories, and this is something we discovered actually after everybody got a taste of Sunday shopping.

When the Supreme Court of Ontario declared 113 ultra vires, we basically entered a period of Sunday shopping, and this was another stage in the evolution of Sunday shopping in Muskoka. It was a most interesting thing, because the catastrophe that everybody suspected did not occur. People basically made a business decision. They said, "Do I need to be open to serve my customers?" or, "Can I make more money by opening up Sundays?" Some people did, some people did not. They made a business decision. It was all very simple and everybody got along just grand.

In fact, this Sunday I had a most interesting experience. I was doing some plumbing around my mother's house. I was cleaning out some of the faucets and the traps and I needed one of the washers that fits on the bottom of a trap.

So I phoned around and I discovered there were a couple of stores that were open and I wandered on down and I got one and everything was grand. It worked out just fine, and again we discovered that some people are open, some people are not. It is their choice.

One thing we have also discovered came as a result of the next phase in the evolution of Sunday shopping, and that was after the Court of Appeal decided that Bill 113 was constitutional. At that point in time, we had a flood of requests for the passage of a bylaw under 4(1) of the act. So we went through the process of holding the statutory meeting and we had about 15 or 20 people come forward, which is a large number of people for a regional council meeting at the hearing, and it was most interesting, because virtually nobody made reference to the ideals behind the common pause day. All anybody wanted to talk about was business regulation. That was it. That is what we found we were basically dealing with, business regulation.

So what the district council decided to do was pass a bylaw basically allowing wide-open shopping between, in essence, Victoria Day and Thanksgiving Day in any given year, and this is viewed as an interim solution.

It is hoped that the common pause day principle will be rethought, that it will be recognized as being, as I say, impractical and inappropriate, and that we will be able to allow businesses to exercise freedom of choice. That is a very important principle.

One of the things that we did discover was, many of the local chambers of commerce came forward and did make presentations at that public meeting. There were two very common threads at that public meeting: number one, the principle of freedom of choice. Businesses still want the option to decide by themselves as to whether they are going to be open on Sundays in Muskoka, and the statistics were actually overwhelming. The surveys were done and it was like 75% in favour of that principle, 25% against.

The second thing that was very clear was that there was a concept that the regulations, whatever they might be, must be the same for everybody. In other words, do not discriminate among categories of businesses. If you are going to regulate business, make the rules of the game fair to everybody, and that is entirely understandable, because not everybody fits within a given type of business. In Muskoka, people sell a little bit of this, a little bit of that. You find a whole variety of products in any given store. You find a whole variety of clientele that might shop at any given store.

In that regard, if you take a look at Muskoka, Muskoka is sort of a microcosm of Ontario. It is made up of permanent residents, and there are about 40,000 of us. It is made up of up seasonal residents, also known as the cottagers, and they number something on the order of 100,000. They are actually becoming more and more permanent, because with the winterization of cottages, etc, you are finding that people are spending more and more time up in the area. You are also finding that we have a large number of traditional tourists, ie, people who go to resorts, people who go to campgrounds, people who go the various attractions, such as the Segwun or the Bracebridge Santa's Village, and you also have a large variety of business travellers.

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It basically breaks down that it is clear from the surveys and the studies we have done that these people basically want the opportunity, and if the retailers want to give it to them or meet their customers' demands, then so be it.

The final position that is sort of discussed there is the concept that if we are not persuaded to not further pursue the common pause day and stick with Bill 113, I respectfully submit that you are going to really seriously have to look at Bill 115.

I have been in this business for eight and half years. When I was called to the bar in 1983, I started work as the assistant solicitor at the district of Muskoka. I am now the district solicitor. To be honest with you, the proposed regulations in Bill 113 are no more workable than the "essential for maintenance or development of a tourist industry" test that we saw in the pre-1989 legislation. Municipalities are not going to pay attention to it. It is going to be abused as badly as was suggested when the 1989 legislation came through. It is almost incomprehensible. To be honest with you, I still do not know exactly what those regulations say and I would not be confident in giving any opinions as to precisely what they are.

You are going to have to broaden your concepts of tourism. My suggestion would be that if you indeed do decide that tourism is a provincial sort of interest, as has been suggested, then it may be much more appropriate that you enact a standard exemption in section 3, along with the pharmacies and convenience stores and the various other things that one finds, and simply do it that way, as opposed to leaving it up to municipalities to decide whether they are a "tourist area."

Turning then to the common pause day in particular, I would like to share with you some of my experiences in dealing with what I would call conduct regulation. Governments today do really two things. What they do is provide services or they engage in what is known as conduct regulation. By conduct regulation I mean things that are basically laws to govern what people do, "Thou shalt not do X upon pain of penalty Y." You find that prevalent throughout our society. It goes everywhere from the Criminal Code to the local stop sign. All of this is a form of conduct regulation.

In my experience, if one is proposing to enact a conduct regulation, which this in essence is, you really have to satisfy four tests. The four tests are: (1) The proposed regulations must have the general support of the community at large; (2) the proposed regulations must be understandable and workable to those who will be affected by them; (3) they must be legal in the sense of being within the jurisdiction of the enacting body and they must not be contrary to any overriding legislation, such as the Charter of Rights; and (4) there must be a clear intent and effort to enforce the proposed conduct regulations.

With respect to item 1, I am going to suggest to you that the proposed common pause day does not have the support of the community at large. When I say community at large, you are going to have to look at your community as being the retailers, the shoppers and potentially the people who work in the retail stores.

It has been my experience that in terms of shopping, most people do not care. They like the convenience. They like the opportunity to shop on Sundays if it is given to them. When it comes to the retailers, our surveys in Muskoka are clear: They want the opportunity.

So we are left with the workers. With all due respect, I think you have that base covered. If the purpose of this legislation is simply worker protection, I think you have done that satisfactorily with the proposed amendments to the Employment Standards Act by giving people 36 hours off in any given seven-day week. That will satisfy your concerns.

If there is any doubt about it, some of you may be aware of the recent decision of an employment standards officer which reinstated a particular worker at I believe a Bata shoe store or something like that. That is a clear indication to the bosses who will potentially abuse things that such conduct will not be tolerated. All it is going to do is take one or two of those to get the message out, but I think you have your worker protection covered.

As a result, I would suggest to you very strongly that you would have a difficult time finding the support of the community at large. I suggest that is an understandable concept, because you have to go back to what conduct regulation is all about. Conduct regulation is designed to remedy a mischief. In other words, thou shalt not murder thy neighbour because it is decided by society that that is not appropriate conduct.

With all due respect to those who think otherwise, I submit that there is no real mischief here that is being remedied. You are looking at something that, really, there is no real problem. As a result, conduct regulation really is not appropriate in the circumstances.

With respect to understandability to the community at large, to be frank, I wish I did not have to spend the time that I do answering people's inquiries as to whether they are permitted to be open or not.

Just as an example of how this whole scenario has been misinterpreted in the past, one takes a look at the communities that are going about happily designating themselves tourist areas. There has not been and is not now any such power to do so. Prior to 1987 there was the ability to enact regulations that permitted certain classes to be open for the purposes of developing or maintaining a tourist industry, but one did not find a power that said, "You may designate yourself a tourist area." Nowadays, obviously there is no such power. If one reads the legislation correctly, exemptions can be enacted on any basis and at any time whatsoever.

So communities even using the legislation do not understand it. People who are subject to the legislation do not understand it. The calls to my office, people inquiring about whether their store qualifies under this, that or the next thing—it is almost a day's worth of work prior to any major holiday. It is simply not understood by the community at large.

I am going to suggest to you that your proposed regulations will not be understandable to the community at large and I am going to suggest to you that you probably will not be able to enact regulations that are understandable to the community at large because of the diversity of business. You simply cannot classify businesses on the basis of

product line or customer status and have it work. It just does not work, folks.

With respect to the proposed legislation meeting the general legal requirements—this is actually a very important point among all the retailers—it is very clear that whenever you attempt to distinguish between businesses you have discrimination. That is a very bad word in today's society. John Doe is going to be allowed to be open but Mary Doe, who sells something similar or maybe slightly different, is not. That is inappropriate in today's society. Any attempt to discriminate between businesses, whether it be by way of their location, by way of their product line or by way of their customer status, is, in my submission, entirely inappropriate.

That is, I suggest, a fundamental problem with this whole concept. If one actually takes a look at discrimination issues, I note that you are talking in terms of common pause day, but you left in section 5 of the Retail Business Holidays Act as added in 1989. This is where a business can opt out on the basis of the religion of the owner. That is a most interesting concept. I suggest to you that it flies in the face of a common pause day. I suggest that the proposed legislation is discriminatory and is really further inappropriate.

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The final point is enforceability. There is no sense passing a conduct regulation that you are not going to enforce. In Muskoka the enforcement is done by the OPP, as it may or may not be done in other areas of the province. It is a provincial statute and is within their mandate to enforce. With all due respect, our police officers have better things to do than run around chasing storekeepers for not complying with relatively low-level conduct legislation.

I cannot tell you the times I have spent talking to OPP officers, discussing one business or another solely because a competitor is complaining. I always start out my conversations now with police officers: "Who is complaining? Is he a competitor? Do you really want to pursue this?" We have murderers in Toronto, we have difficult problems in Muskoka and the police just do not have the time to proceed with this extremely low level of conduct regulation. They should be doing other things.

The net result is that the enforceability of the legislation is highly suspect. Whenever your enforceability is highly suspect, I think you have to go back to the first question: What great remedy are we going to get out of this?

Then, with all due respect, I suggest that the proposed legislation does not meet the four basic tests applicable to conduct regulation, and that the proposed common pause day really should be rethought.

The Acting Chair: Your time is just about up. If you would like to wrap it up and allow time for a quick comment.

Mr Royston: I would like you to take note of one item: The second position in the paper is that we return to the municipal option, Bill 113. I suggest that because you really have to give municipalities the power to make a decision or not. Hamstringing them with some vague criteria is really not going to work. The practicality of it is that municipalities, if

they are faced with a common pause day, will want the option of opting out regardless of basis. That is the only way it is going to work. Otherwise you are going to have people screaming about discrimination. It is really the only workable way to go.

Mr Sorbara: Let me thank you for what in my estimation is the most articulate, thorough and insightful analysis of the bill thus far in these public hearings. Without disrespect to the other presenters, it makes the business of travelling around the province and holding public hearings worthwhile. I endorse your view of what government does and the four tests for conduct regulation.

I also want to tell you that your statement—and I am not quoting verbatim but I will try to get the thrust of it—that, "Any attempt to classify businesses on the basis of product line, category of customer, number of employees or size is unworkable," reflects precisely what we have heard in so much of these public hearings.

When the state starts to try and pick the winners and losers in the commercial market it is undertaking something that ultimately will prove destructive to that very commercial activity. I take it that the views you are expressing here are the views of the council, which supports the position you are expressing: that you prefer no regulation, your second option is Bill 113 and your third option would be Bill 115.

Mr Royston: With one minor amendment: The council is not opposed to what I would call the statutory holidays, Christmas, New Year's and so on. We understand there are certain days that must be set aside as public holidays and it is appropriate that businesses be shut down on those days. The only way that you are going to get businesses—retail businesses in particular, which are not subject to the majority of other statutes—to close on those days is through a statute such as the Retail Business Holidays Act.

Mr Sorbara: To put a little political flavour into the stew, when Bill 113 was presented, and during its consideration, there was a great deal of hostility on the part of municipalities because they were given this wide-open discretion. Nevertheless, during these hearings—from the mayor of North Bay to many other municipalities—they are coming to grips with this responsibility and frankly feel a degree of satisfaction.

What was the experience in your municipality? Was there opposition at first to the so-called municipal option, and has a transition taken place to the present position?

Mr Royston: Yes. Originally I was instructed to criticize the municipal option as it has come to be known. But I do believe there has been growth in our area and people have realized that is really the only practical basis upon which the thing can operate. We have certainly learned something during the last couple of years.

Mr Jackson: Let me commend you as well for a thoughtful brief and presentation. I guess my area of concern is the one you touched upon—and we have not had much exposure on this point—the concept of enforcement as it relates to the mechanics and daily operation. You have given us a personal insight into your operating procedures before Bill 115. It is of concern to me that there is a growing

number of other Criminal Code matters that the police should be attending to, together with a non-growth in our police services, yet a growth in crime.

I recently had disturbing news in connection with the murder of the Mahaffy girl in my community and her dismemberment: We have two and a half police personnel working on that case and we have misled our community into believing that we have a task force pursuing her killer.

The police very rightly share with me the fact that their imposed new responsibilities, such as this legislation, occur without consultation. In fact the politicians are determining community standards of safety by virtue of pressures with their legislation, whether it is a court-imposed supervision which we saw two years ago under a previous government, or the absolute unworkableness of the police presenting themselves to you seven days a week to determine whether you fall inside or outside a broad definition of tourism, when in fact at the public hearings we are told that it is not broad enough and that it will be fraught with difficulties.

I want to thank you for presenting that point on behalf of our police. As you know, they are not able to come before the committee and make that presentation because of the very sensitive nature of their relationship with the Solicitor General's office. In many ways they have been muzzled because they are not free to speak on this subject.

You may wish to comment further if you have any other personal experiences. But whether it is this series of murders—we have had eight or nine murders in my community over the last four years; we have also had the case of a young girl who was not found for some 30 days—it raises larger questions about a growing crime rate in this province and why we are adding this pressure and why we are not listening to the fact that clearer guidelines would support easier enforcement.

1030

Mr Morrow: I would like to thank you for taking the time to come to talk to us this morning and help us make a very good piece of legislation.

With respect to your concerns about the concept of geographic areas, following the hearings and the outcome of this piece of legislation, the Ministry of Tourism and Recreation has undertaken to work with the local municipalities to develop guidelines to provide a more comprehensive formula.

With the question of an upper-tier decision on applications, which level would be more appropriate, an upper or a lower tier, and how would that affect the district of Muskoka?

Mr Royston: I will give you my personal point of view, because that is all I can give you at this point. I have not discussed the issue with anybody. My suggestion would be that the decision be kept at the highest level possible. The reason for that is to ensure fairness and sameness across the largest area possible.

In other words, you do not want a different series of regulations every 10 miles. You want to have the same regulations virtually applicable to everybody, and that was very clear in the presentations we received at our public

meeting. People were very concerned that, whatever the regulations might be, they be the same for everybody.

Mr Morrow: Basically what you are saying is that the province should set the criteria for tourism.

Mr Royston: Yes, and if there has to be a local decision, then it should be kept at the regional level. For example, there is no reason why a food store in Gravenhurst should be permitted to open, whereas a food store in Muskoka Lakes, 25 miles down the road, should not be. There is a real desire to maintain a consistency across the region.

The Acting Chair: Mr Royston, on behalf of the committee, I would like to thank you for taking the time out to come and give your presentation this morning.

ONTARIO HOTEL AND MOTEL ASSOCIATION

The Chair: Our next presenter will be from the Ontario Hotel and Motel Association. You will be allowed half an hour. You can either take a full half-hour for your presentation or you can make a shorter presentation and allow time for questions and comments. Could you please identify yourself for the record, and then proceed.

Mr Schaffer: My name is Jason Schaffer. I am the chairman of the board of the Ontario Hotel and Motel Association. I own a motor hotel in the city of North Bay, and I speak both as an entrepreneur and as the chairman of the OHMA.

The proclamation reads: "For all Ontarians, you will rest, and you will rest on Sunday, with the exception of the following: those employed in hotels, restaurants, airports, taxis, some retailers, marinas, telecommunications, hydro, police, firemen, convenience stores—of course, depending on size—pharmacies, transportation, community grocers, gift shops, hospitals, etc, etc, etc"—all who have the privilege, or possibly, depending on your point of view, divine misfortune, of having to work on Sundays.

Further, the Ontario government and municipal governments across the province are large employers of workers, both directly and indirectly, who must work on Sundays and holidays in retail businesses and in retail business establishments which compete directly with privately owned retail businesses and retail business establishments.

Everything from gift shops in hospitals to numerous large and small attractions, such as the Metropolitan Toronto Zoo, Ontario Place, Ontario Science Centre, Black Creek Pioneer Village, Science North, Old Fort William, provincial parks, Upper Canada Village, conservation areas and municipally owned stadia offer various forms of retail services from concession stands and camping supplies to specialty boutiques and retail stores.

The province of Ontario is not bound by any provisions in Bill 115 with respect to crown-owned retail business establishments on Sundays or statutory holidays; it can open them whenever it wishes. Municipalities can easily exempt their own retail establishments under Bill 115.

Surely there is no place for such blatant hypocrisy and unfair competition in a province such as ours, that prides itself on equality, rights and freedom for all. Does this sound intuitively sensible, reasonable and judicious?

This legislation will ostensibly create a socioeconomic division between those who must work on Sunday serving the particular needs of the privileged minority, who by government sanction not only are not required to work but are actually prevented from doing so. Legislation which supersedes the individual's inalienable right to work, earn an income and profit from the production and sale of goods and services, regardless of the day of the week, is wrong.

By the year 2000, if not sooner, tourism will be the largest industry in the world. It is already Ontario's largest private sector employer and the largest industry in the service sector, accounting for almost 70% of all new jobs.

This committee has heard from various tourism groups that have expounded on the statistical importance of the tourism industry. I too have brought with me a myriad of statistical evidence that demonstrates the vital importance of tourism in Ontario. Indeed, tourism is the very fabric of our economy. We must seize this opportunity to convince the provincial cabinet and government caucus that allowing unrestricted Sunday shopping is an endorsement of Ontario's recognition that tourism will be accorded the value it is entitled to.

If we are to be successful in sending the signal that Ontario is open for business, I believe we must not couch our arguments in subjective terms. We must speak to the legislators of our province in a language they understand best. Let us for the moment assume that we all understand the importance and economic impact that Sunday shopping will provide in the tourism industry. I would like to turn our attention to the question of how Sunday shopping impacts the quality-of-life continuum.

First, let it be understood that we are not asking the government to require people to work on Sunday, but to allow the choice to work on Sunday. Further, it has been reported that out of more than 10,000 inquiries and complaints registered with the employment standards branch of the Ministry of Labour in 1990, fewer than 15 were related to the right of retail workers to refuse work on Sundays and holidays. To those who would argue that one's quality of life is diminished by virtue of his working on Sundays, let me provide some personal examples which challenge their point of view.

I currently employ a staff of about 35 employees. One of those employees in housekeeping has worked in my hotel for over 25 years. During that time this individual has worked on Sundays, on Mondays, on Wednesdays, and I submit on every day of the week, but never has she worked seven days a week. She has never missed a shift and regards her work as meaningful, productive and significant. During that time she has raised a family, purchased a home, purchased cars, and she encouraged her daughter to work for us for many years. She is a member of a local church and is involved in community activities.

We employ a young lady who has worked in our dining room continuously for 17 years. She is single, enjoys working with the public and carries on a meaningful and productive life outside the hotel.

We employed a gentleman in maintenance for 13 years, until he retired at the age of 65. During his employment, this gentleman never questioned what day of the week he

was required to work. He regarded his contribution as essential and meaningful.

We currently employ a lady who works in our laundry department and has done so for 17 years. She has raised a family, and again, encouraged both her daughters to work in our hotel for summer employment.

I respectfully submit that if someone were to question whether these people's quality of life has been threatened, it would be considered a personal affront.

It is important to question what Ontarians' quality of life would be without the contribution of people like these and others who are employed in restaurants, art centres, movie theatres, campgrounds and convenience stores. There is a basic inequity in a system where some people work on Sundays to provide a quality of life for those who are prohibited by legislation to work on Sundays.

It is easy to lose my particular business in the industry statistics that indicate that in 1990 in Ontario our industry generated direct expenditures of \$15.5 billion, an estimated total income of \$22.5 billion and estimated total sales of \$36.9 billion, that our industry is one of the nation's largest generators of personal income, and corporate, property, business and sales taxes for all levels of government, including \$1.85 billion to the province, \$2.5 billion to the federal government and \$300 million to municipal governments.

However, it is evident by statistical losses in our industry that without government endorsement of the tourism industry through Sunday shopping, many will lose and have lost their particular businesses. Where will our quality of life be then?

Sunday and holiday shopping has become an economic necessity for many thousands of Ontarians as they struggle to balance working realities with personal and family responsibilities. It is also a primary tourism activity for families and individuals who travel to and within our province and who combine shopping with entertainment, sightseeing, touring, dining, recreational activities, festivals and events.

In conclusion, I ask you to consider enhancing my ability to offer the hospitality that Ontario so desperately needs to provide to remain competitive in the global marketplace. By allowing unrestricted Sunday shopping, you are allowing me to compete on a level playing field and releasing my entrepreneurial spirit which will permit me to realize my potential. Put up roadblocks, such as elimination of Sunday shopping, and we collectively will suffer the consequences.

1040

Mr Sorbara: I have just a couple of questions. May I ask the witness, first of all, whether or not it is the case that the tourism industry, and in particular the operation of motels and hotels in Ontario, has been under severe economic pressure and difficult economic circumstances over the past couple of years?

Mr Schaffer: Absolutely. I can tell you that in the city of Toronto, of 104 properties in downtown Toronto, 28 of them currently are in receivership.

Mr Sorbara: Is it not the case that although governments cannot solve your problems for you, the revisitation of a number of regulations that affect your ability to do

business is one of the things you see as absolutely necessary to the vitality of your businesses in the future?

Mr Schaffer: Absolutely.

Mr Sorbara: Can you tell us a little bit about the interrelationship between operating a hotel or motel, which obviously can operate on Sunday, and the operation of those businesses in communities that wish to or choose to open on Sunday? Why are these two things interrelated?

Mr Schaffer: The reason they are interrelated is that tourism certainly—if you ask the man on the street what tourism is, everyone will have a response. They all have a definition. It is so encompassing that it involves—I was listening to the mayor of North Bay this morning, and primarily many people talk about individuals who come here as visitors who are travelling and so forth and who are on holidays, but there are myriad reasons why people travel in Ontario, including business and trying to get to another destination and passing through communities and so forth.

For the tourist community to be effective in generating individuals, there has to be a notion that we are open for business, that there is a cross-section of commercial establishments that are open, that are available for whatever the needs might be, whether they be your car breaking down, shopping in a gift shop or trying to get a fax sent to another office.

Unless there is a general perception that Ontario is open for business, then there is a reluctance on behalf of individuals to choose Ontario when they have other choices available to them all around the province. Primarily we are being hit pretty hard by the fact that the northern states in the United States obviously are open on Sundays, but more than that, there is a general perception that you can enter any of those states and whatever the day of the week, you will not be left stranded.

The tourism establishment needs this sort of handcuff released from it so that it can offer its services to things like conventions. Toronto has been hurt very hard by virtue of the fact that many American convention concerns do not wish to come to a community on a weekend, for instance, where everything is closed on Sunday. It is more than just the business that goes on in the convention. It is also the ancillary kinds of things that go along with it, the kind of social interaction and shopping and so forth that go on in every convention, that make it a valuable tool. Yes, there are a number of reasons and we could go on further than that.

Mr Sorbara: Shopping is one part of the puzzle that makes the visit complete.

Mr Daigeler: I was rather interested to hear your comments with regard to the earlier presentation by the mayor of North Bay, and I appreciate the explanations you have given. To sum it up, you feel that the tourism exemption, which in its definition is very wide in this current bill, is not sufficient to give the tourism industry generally the freedom to operate and to achieve its business objectives. Is that correct?

Mr Schaffer: It is my personal point of view that if we are going to announce to the world that tourism is an

important and vital industry in Ontario, as all the statistics show, it is important to me that this proclamation come from the provincial government, that the provincial government endorses tourism and endorses the notion that we must remain competitive, and that we are prepared to do whatever it takes to make our province competitive in the global marketplace.

Tourism has taken quite radical changes in the last 5 to 10 years, both in terms of the restaurant side and as the accommodation side. What used to be roadside motels for people who were travelling between point A and point B no longer exist any more. We have 1-800 numbers. People come from all over the world, and 85% of the travellers who come into Ontario come in through the city of Toronto.

I think this province needs to say that we are open for business. I think that word has to come from the provincial government, that there not be a perception that the provincial government wants to pass on this responsibility to define "tourism" to a municipality, that the provincial government understands what tourism is and is able to define it on its own.

Mr Carr: One of the questions I have relates to what will happen specifically here in North Bay. I think you were sitting here when the mayor was here and he said he feels the vote will probably be 11-0 in favour of not taking the tourist exemption. The question I would have would be this: Obviously I wish I could say your need to go before committees would be over after today, but it seems like your fight has just begun in this community.

I want to see what your feelings are, if you can enlighten the committee. What would happen if, for example, as we may have, some neighbouring communities are open? How do you see that affecting your particular members? If we do have some neighbouring communities that are open, would that make much of an impact, or would it be like the mayor said, that nobody comes to North Bay to do shopping, so he does not see any decrease in the amount of tourism activity, as an example?

Mr Schaffer: Let me answer that with three points. First, to my knowledge the mayor has never talked to the tourism community generally. He has talked to the retail groups and he has talked to the malls and so forth, but he has never had a direct communication with me.

I represent about 75 tourism properties in this city, specifically in North Bay. Of course I represent a great number in the province of Ontario. Some time ago, I guess about 9 or 10 years ago, the chamber of commerce had been making applications to the city for some 9 or 10 years to establish a visitors and convention bureau. Every year the city chose not to provide it with the money and the ability to establish that visitors and convention bureau.

It got to a point where the tourism community was fed up with the fact that North Bay was being left behind, in particular left behind communities like Sudbury, which is our neighbour to the west, and decided as a group to go to council and admonish it to establish a visitors and convention bureau. When we went to council, we indicated the taxes that we pay and the power that we have in this community

and the vote went from 11-0 against to 11-0 for. So there is an opportunity for us to make an impact at council.

1050

The other thing, in terms of a direct response, there are many people in North Bay who feel Sudbury has been taking every piece of the pie away from them as we have gone through the years, with various opportunities to pick up government buildings and tourist destination points and so forth. There is something of a healthy competitive environment between Sudbury and North Bay. Sudbury certainly is a larger centre than North Bay and maybe it has more resources, but at the same time North Bay does compete with Sudbury in many areas.

In this area, if Sudbury were to have shopping, it would be to the detriment of the marketplace here in North Bay, without any question. It is not that people come to North Bay to shop. There may be a small portion of the community that comes specifically to shop in any community, but generally speaking it is an ancillary type of thing. If they believe the town is open and their needs can be taken care of, they do not have to guess whether this business or that business is open or not open. They come here, as the mayor said, for recreational activities, but at the same time it affords them the ability to say to their families: "We can go there. There's a cross-section of retail businesses that are open. If we need a life raft, we can get one; if we need our car fixed, we can get it fixed."

Mr Sutherland: If I could just get some clarification here, you were saying all kinds of activities fit into your definition of what goes into tourism.

Mr Schaffer: Yes.

Mr Sutherland: You said Sunday shopping is an economic necessity for many people in this day and age. I was wondering if you could expand on how you come to that meaning.

Mr Schaffer: It is not so much that it is Sunday; it is any day of the week. As I said in my presentation, people are trying to balance the realities of living today, earning an income and earning a profit and savings, with the realities of bringing up families and so forth. I think you have to take a look at it in the light that, as far as tourism is concerned, we cannot operate an industry that says, "Everything closes at 5 o'clock on Friday or 5 o'clock on Saturday and doesn't open until Monday morning."

I was born and raised in Florida and my family owned a hotel in Daytona Beach. I grew up in the hotel. I cleaned the dishes and so on. It has never been a perception of mine that there is a day of the week where I am not available to work. It is not that I think there should not be a day of rest; there absolutely should be a day of rest. I also agree with statutory holidays, that there should be time given for the family and so on. But saying that Ontario is going to shut down for a day I think is certainly to our detriment and to the detriment of those people who are happy and willing to work and interested in working on those days. The people who work for me or for any hotel come knowing they may have to work on Sundays. That is a precondition of employment. They are happy to do so as members of the hospitality industry.

Mr Sutherland: You mentioned that the tourism industry has been suffering this past year, in 1991. Some of the information I have received indicated that in 1990 there was a lot more travel going on and that 1990 was not a bad year. I guess that would lead me to believe that in some ways, if that information is true, the tourism sector is reflective of the economy in general. Therefore, if we are in a recession, the tourism industry goes into a steep recession as well.

Mr Schaffer: Yes, there is no question that is a fact. The recession has certainly affected the marketplace in the hospitality industry. However, in particular in urban centres there has been a marked decline as a result of the Sunday shopping issue. Specifically, the greater impact is in the larger communities and also in communities that predominate with business and convention travellers to a degree.

Mr Sutherland: If I can just bring it down to a more local focus, and given the nature of the mayor's comments this morning about the city of North Bay that people who come to the North Bay area are coming for recreational-type activities, whether that be hunting, fishing, canoeing, camping or whatever, do you think your particular business is going to be heavily affected one way or the other by what the city of North Bay does?

Mr Schaffer: Yes. I do not cater to people who go hunting or fishing. That is not my particular business. I own a motor hotel that deals predominantly with the business traveller, convention banquets and so forth. My property is downtown. I am in the downtown section next to the waterfront. My particular business will suffer.

I would also like to say that the idea of North Bay as a destination point for fishing, for hunting for moose and mountains is over. North Bay has to become a destination point for more than just those people who want to go angling and so forth, for a number of reasons. North Bay has to search for a definition that will allow it to be a visitor destination point once again. Its history has been that a lot of people came here in the 1950s, 1960s and 1970s to go fishing and hunting, but that is really not the case any more.

The Acting Chair: Mr Schaffer, on behalf of the committee I would like to thank you for taking time out this morning and giving us your presentation.

Mr Sorbara: Mr Chairman, if I might, can I just raise a point? Call it a point of order, if you will. It is really a point of information and a request for information. I am glad that counsel for the ministry is here for this point. It arises, by the way, from the submission from counsel for the district of Muskoka and his reference to the continuing presence of section 5 of the current act.

As I recall, after the presentation from the Canadian Lord's Day Association the parliamentary assistant stated to the Solicitor General during the public hearings that this bill had absolutely nothing to do with religion and that its purpose was simply to create the common pause day in Ontario. I was going to say unaware. I did not recall at that time that section 5 continues to be part of the bill. That, by the way, is the Sabbatarian exemption which allows a business or an individual to identify his or her own common

pause day or a common pause day for a particular business entity that does not choose to have Sunday as its common pause day.

I believe it is inconsistent with the statements of the parliamentary assistant, presumably speaking on behalf of the ministry, that the bill has nothing to do with religion to at the same time have the continued presence of the Sabbatarian exemption within the bill. I do not think the parliamentary assistant meant to be inconsistent and I am not sure the ministry means to be inconsistent, but my request is that at some point during the hearings we might have a statement from the ministry, from the minister or from the parliamentary assistant, on the question of the Sabbatarian exemption, and whether the failure to repeal section 5 was inadvertent or whether the government prefers to maintain the policy in the law that there shall be a Sabbatarian exemption.

I just put it to my colleagues who are members of the government that in my view it is inconsistent to reject the notion that Bill 115 has nothing to do with religion and yet at the same time maintain section 5. If you care to review section 5, you will notice that it does make specific provision for religion. In fact, it says in its closing words, "A retail business establishment is always closed to the public throughout another day of the week by reason of the religion of the owner of the retail business."

I ask that the government present its case in defence of the maintenance of that section or, in the alternative, advise the committee that it plans to bring forward an amendment repealing that section.

The Acting Chair: I will pass that on to the Solicitor General or to the parliamentary assistant and get some clarification on that.

1100

UNITED FOOD AND COMMERCIAL WORKERS
UNION, LOCALS 175/633

The Acting Chair: Good morning, gentlemen. You will be given half an hour for your presentation. You can either use the full half-hour for your presentation or you can submit a shorter presentation and allow time for questions and answers or comments from each of the caucuses. Could you please identify yourself for the record and then proceed.

Mr Miller: Good morning, Mr Chairman. My name is Ian Miller. I am a business representative for the United Food and Commercial Workers Union, Locals 175/633. Also with me this morning is Wayne Montgomery, a business representative for UFCW Local 1008. I would like to ask Wayne to speak to the committee for just a couple of minutes, then I will make a presentation to the committee and then we will answer questions.

Mr Montgomery: Thank you. Just for clarification I must ask this question: Was I correct in understanding that the representative from the district of Muskoka said he had nobody present an issue regarding a common pause day when they had their meeting? My point is that if that is the case, that is incorrect information. Local 1000 did present a brief to them. They mailed it up to them and it was our understanding that it would be dealt with at that specific meeting. It did deal with the common pause day and also

the legislation as far as tourist areas go, and we recognized the tourist area needs of some businesses to be open, but that businesses that did not meet the needs of tourists should not be allowed to open. We also believe that Mr Les Kingdon attended that same meeting and would have spoken on the same issue.

The Acting Chair: Thank you for that clarification.

Mr Miller: The United Food and Commercial Workers Union Locals 175/633 and the approximately 1,500 members employed in the North Bay area by such companies as A & P Food Stores, IGA food store, Woodhouse and Cherney's furniture stores and Valdi stores and many others wish to take this opportunity to thank you for being able to come before you and participate in the democratic process with regard to the issue of Bill 115, Sunday shopping and working.

UFCW, Locals 175/633, is the largest private sector local union in the whole of North America, with a membership of approximately 46,000. Our local union is solely situated in the province of Ontario, so it would come as no surprise to this committee that Locals 175/633, with the aforementioned membership, take the issue of Sunday shopping and working seriously. We believe it is in the best interests of employers and our members to have legislation in the province that provides for a common pause day.

On Monday July 29, Brother Clifford Evans, the Canadian director of the UFCW Canada, made a presentation to this committee. Our members in North Bay and the province support the recommendations made by Brother Evans to this committee on that date.

Our union has five main concerns with the proposed amendments to the Retail Business Holidays Act, and they are: (1) the intent of the Retail Business Holidays Act; (2) the municipal option; (3) drugstore openings on Sunday; (4) enforcement of the legislation; (5) the definition of a retail business. Rather than discussing each and every one of our concerns, we have chosen today to deal with the enforcement of the legislation.

The act, as it stands today, provides for a maximum fine of \$50,000 upon conviction for opening illegally on Sundays. Municipalities and/or the Attorney General can ask the Supreme Court of Ontario for an order to close a business that is illegally open. The \$50,000 is a maximum fine. There is no minimum fine and we do have cases where the courts are imposing fines of \$300 upon convictions. It is our belief that \$300 is not a deterrent to opening on a Sunday. The present act also allows the Attorney General and/or municipalities to ask and/or file for an injunction.

The proposed amendment: Our government has proposed that the minimum fine for a first offence would be \$500 and \$2000 for the second offence. It is our belief, while we are in full support of the government that a minimum fine is needed, that the \$500 fine for the first offence and the \$2000 for the second offence is too small. We believe that the amount of the proposed fine will not stop retailers from flagrantly disobeying the law of the province. It is quite conceivable that the store's profit for one day would be far in excess of the minimum fines and that the cost of the fine would undoubtedly be passed on to the consumers through higher prices.

The proposed legislation does not alter who could apply to the Supreme Court for an order to close an establishment which is illegally open. The limiting of the Attorney General and municipalities as the only bodies who can apply for an order to close an establishment will make enforcement of the law almost prohibitive.

We recommend: (1) that the minimum fine for the first offence be \$10,000 and for the second offence \$20,000; and (2) that any affected or interested person may make application to the Supreme Court of Ontario for an order to close a business establishment that is open illegally on Sundays or holidays.

We believe there is precedence in Canada throughout the province of Quebec to allow affected or interested parties to apply for orders of closure to the Supreme Court of that province.

The cost of enforcing this law by a municipality and/or the Attorney General's office is prohibitive for the municipality and the province. If our recommendation is accepted as to who would be able to apply to the Supreme Court for an order, we feel the cost to the municipality and the province would greatly diminish.

Higher minimum fines and a wider spectrum of parties applying to the Supreme Court would serve as an effective deterrent to businesses which want to open illegally on Sunday.

In conclusion, I would like to say that the United Food and Commercial Workers Union Locals 175/633 in the North Bay area thank the Ontario government for its support of common pause day legislation and seek the support of this committee to ensure that we have a law that is just, workable and fair to all. Again, I thank this committee for affording us this opportunity to participate in this process.

The Acting Chair: Thank you very much. We have about five minutes for each caucus.

Mr Sorbara: I just have a couple of brief questions. Can I ask first of all whether the stores where the United Food and Commercial Workers Union represents the workers are closed shops, that is, that one has to be a member of the bargaining unit in order to work in a job that is identified as part of the bargaining unit?

Mr Montgomery: That is correct.

Mr Sorbara: Under Bill 115 your workers will have an absolute right to refuse work. Do you understand the provisions of that section?

Mr Montgomery: Yes, we do. I would also like to state that our membership under our collective agreement has that right to refuse. Other stores which are not organized, even though they have the right to refuse, still can be subjected to adverse conditions which would require them to either lose their jobs or quit.

Mr Sorbara: But presumably you are speaking on behalf of your union and your membership, just like the mayor of North Bay was speaking on behalf of North Bay and the solicitor for Muskoka was speaking on behalf of Muskoka. Are you telling us that you are speaking on behalf of all the workers in the province?

Mr Montgomery: We feel that we can represent the majority of the workers in the province, and especially we

are concerned with the non-organized, as the organized we can look after under our collective agreements.

Mr Sorbara: I submit to you that the non-organized workers are workers who have had the opportunity to join the United Food and Commercial Workers Union and have rejected that option. Is that not the case?

Mr Montgomery: That is not necessarily so. They have not all been approached by us at this point in time to be organized, and I hope that under the economic conditions, if the time arises when we can get the information to organize any of these stores, the people would come on our side and realize the benefit of being organized.

Mr Sorbara: And I would recommend them in that regard. I think that workers who have the opportunity to participate in a trade union have more effective work conditions and are going the way of the future. So I do not disagree with you; I am surprised that you say that you are making your submissions on behalf of all retail workers. Is it not the case that if you as a union choose to adopt the policy position that your workers are not going to work on Sundays, all of the stores where you represent the workers will be closed on Sundays, and that is without any other law whatever?

1110

Mr Miller: Without any law?

Mr Sorbara: Without any other law restricting Sunday openings or closing or tourism exemptions, you have the ability to establish a policy within the United Food and Commercial Workers Union that your workers will not work on Sunday under the absolute right to refuse, and as a result of that, those stores where 46,000 people work will not work, full stop.

Mr Montgomery: That is true, but again, to inflict that imposition on the employers of our people while other stores down the street sell the same commodities would then put a deterrent on our employer as well as our own people. Therefore, we would not totally tell them to not work. We would recommend that they do not, but we would not put a total force on it, as that would put an adverse effect on the employer himself, and we are not out to break our employer, by any means. We are out to see that everybody is treated equally, and we do not think that Sunday being open or any specific individual being allowed to be open is a fair playing field for anybody. If they are all closed on a common pause day is fair, to us.

Mr Sorbara: But would you not say that if you took that step within your union, that would be a positive signal to the rest of the retail workers who did not want to work on Sunday to join forces with you and we could effect a common pause day to the extent that people wanted it simply by virtue of good, solid worker legislation that gave workers the absolute right to refuse and we would not need to go through all the other paraphernalia of tourist exemptions, that the stores would close because workers do not want to work and the UFCW leading the charge would sort of set the pace for the province?

Mr Montgomery: Under labour laws, sir, we are not allowed to effectively force a work stoppage, and under

our collective agreement there is a reasonable amount of overtime requested by the company—

Mr Sorbara: But not on Sunday.

Mr Montgomery: On Sunday it is an overtime situation in our case.

Mr Sorbara: I guess what I am putting to you is that under Bill 115, with the absolute right to refuse, that overrides the collective agreement, as do all statutes, and that is not an illegal work stoppage. That is a policy determination that UFCW workers are going to be available for work on Sundays and those stores are going to close.

Mr Montgomery: To your way of thinking, yes, but from my point of view, the stores are then legally able to be open. Then we would have a work stoppage in effect if we put that to them, due to the fact that the law would allow the store business to operate under whatever guise it would be under.

Mr Sorbara: Well, practically speaking.

Mr Montgomery: Therefore, it would be the responsibility of the employees for whatever overtime would be necessary.

Mr Sorbara: Just to end, could I get a clarification from both the Ministry of Labour and the Solicitor General on that? My impression is that the absolute right to refuse overrides any collective agreement and, notwithstanding that a store can legally be open, all of the workers of that store can refuse to work, and if it is a closed shop under Ontario's labour laws, the employer would not be able to hire scab labour to open on that day. Could I get a clarification from the Ministry of Labour and the Solicitor General on that? It is an important point for the UFCW. If they can effectively enforce a common pause day by a uniform policy of refusal, they should know whether they have that right.

The Acting Chair: Having nobody here right now, I am sure we could request—

Mr Sorbara: No, I do not want it now. I would like a similar request to the one I made about section 5; that is, a written response from both ministries as to the interplay between a collective agreement, the Ontario Labour Relations Act as it relates to illegal strikes and the effect of the absolute right to refuse.

The Acting Chair: Mr Daigeler, you have a minute left.

Mr Daigeler: You may not be able to answer this question. Is there a union, or are the workers in the tourism and hotel industry organized at all? So far we have had a lot of representations from the operators and owners of the tourism industry but no representation from the workers.

Mr Montgomery: Yes, there is. Some of the chains are organized throughout Canada, but I am not sure which ones, and I really could not answer that for you. I really would not want to speak on their behalf, other than to say that they know their industry requires a seven-day operation. The retail industry has always been historically a six-day operation. The employees know they have to work on a Saturday and accept that, but what we are fighting for is to maintain and have the right for the retail people who work Saturday to have at least Sunday with the children who do not go to school, and in some cases with their wives, who

may work in a retail industry and have a different day off through the week than they would have. Also the children would be at school when they do have their day off. But to speak for the hotel industry, I cannot elaborate any further than that. If we can get information through our source-finding source, we will try to provide it for you at a future date.

Mr Carr: I appreciate your coming here and your submission. As you know, the Minister of Labour has been very concerned about the protection of the workers, and it has been said that during the period of time when we had this unregulated period where people were open, there were only about 15 people who actually complained about having been forced to work on Sunday. We heard from another solicitor this morning who said that when people hear of the case like the one Bata worker, I think he said it was, who got reinstated because he was forced to work, there will be strong enough provisions so that nobody will be forced to work. I was just wondering if you could comment on that. You said that there are not any provisions that can be tough enough, and I was wondering if you could relate your personal experiences of people who might have been forced to work on Sunday during that period of time and maybe just comment on why the numbers were so low before the labour board.

Mr Montgomery: I can give you an example of a friend of ours. She works for a Woolco store. They were open on Sundays. They were open on long weekends, statutory holidays. She was told she had to be there to do up the cashups. She was the head bookkeeper and she had to do up the cashups; that is all there was to it, okay? She was never suspended. She went in and did the job, but she was told she had to be there. It was not a case of you can go. That was her job, she was the head bookkeeper, she was required to be there.

Mr Carr: What about your particular union? Did you have cases of people being forced to work?

Mr Montgomery: No, in our particular case, you have got to understand under a collective agreement we have double time, so people are willing at this current time to work. I suggest to you that if we start getting into areas where specific stores are open under the guise of tourism, the company is going to come back and want to open up the double time system to a premium system and then we will start to have the effect of people not wanting to work Sunday. They are willing right now, due to the current economic climate and high mortgage interest rates, to line up for the double time at any point, whether it be Sunday or a statutory holiday or even in the evenings.

Mr Carr: I guess that is where some of the concern comes from, because people are saying on the one hand, "It's a family day and we're doing it because of common pause day, but if you give us time and a half or double time, we'll forget all that." In speaking to some of the unions, the fear is that, "That's okay now when not too many people are open, we can get time and a half, but if it becomes the norm, business will then come back and say: 'It's now the norm. Sunday's just like any other day.'" Is it not a fact that your real concern is regarding the amount of money on a Sunday, that you would have workers if it is

time and a half but if it is regular time people would rather stay at home?

Mr Montgomery: To begin with, we are not recommending our people work even on double time on Sundays, but again, you have got the people who will. I would like to point out one thing. When the Loblaw's stores were open, the store managers were made to work. I had store managers coming to their assistants, who are in the bargaining unit, and produce people, whoever, and pleading with them: "Please work a Sunday so I can have one day off. I've been working seven days a week for six weeks now. I'm going crazy." Out of due respect to their managers, the guys were saying yes. They did not want to work, but they were agreeing due to the human aspect of it. That is a form of camaraderie that is in any workplace, and a person was not forced to, but out of the unwillingness to see a guy getting driven down—the manager was forced to.

In the malls again, it was mentioned that some of the owners did not want to but the malls were making them. So to enforce it is very difficult. Maybe what the government should do is say, "Okay, everybody working on Sundays is triple time," and see how many of the retailers want to open then.

1120

Mr Miller: We are trying to have some foresight here. Obviously what we would like to see is the legislation to prevent all this, but at the same time we are not so silly as not to realize that we should try and negotiate now in case we do not get what we want through legislation. So we are going to try and get it in collective agreements to protect our workers from Sundays. There is no question about that; we would be less than honest if we did not tell you that.

Mr Morrow: First of all, brothers, I would like to thank you for taking the time to come down. There are just a few things I would like to talk about. You talked about the municipal option. As you know, under the proposed amendments that will be changed to tourist exemptions, which I am sure that you are rather happy to hear. I did not see it in the brief so I have to ask, how many members do you actually have in your local?

Mr Miller: In Local 175 we have approximately 46,000 members, and in the local that Wayne Montgomery comes from there are approximately 16,000.

Mr Morrow: That is a hell of a lot.

Mr Miller: That is right. Local 175 and Local 1008 are the largest UFCW locals.

Mr Morrow: This keeps coming up day after day: We understand that some 50% of the people in Ontario want to shop on Sundays, but if you flip that poll, you also understand that over 70% of the people do not want to work on Sundays. How does that compare with your membership? Is that a lot higher?

Mr Miller: I believe that of the membership in Local 175 the majority do not want to work on a Sunday. They want to have Sunday off.

Mr Morrow: You also raised another interesting point and I am just going to go back a little bit in time. You talked about triple time on Sundays. Under the previous

administration they had a committee on overtime studying that. The recommendation by the then chair, Arthur Donner, I do believe, was that they make triple time on Sundays, and I do not think it went very far. Just in closing, I would like to—

Mr Sorbara: On a point of order, Mr Chairman: I just want to remind my friend that the NDP is now in power and can bring forward legislation bringing into law those overtime provisions. They can do it on September 23 when we resume Parliament. The voters made a decision on September 6 last year and now you guys have the opportunity to bring forward those measures. We are surprised, frankly, that you are not doing it.

The Acting Chair: Thank you for that point of information.

Mr Miller: Mr Chairman, I would presume that when this crossfire goes along you would allow extra time for us.

Mr Sorbara: I would sit another half-hour.

Mr Morrow: I would really like to thank you for being here and I also like Mr Sorbara's comment that you should help organize the unorganized.

Mr Miller: We took particular note of that.

Mr Montgomery: One more point before I leave: I was informed that—

The Acting Chair: We have one more question yet.

Mr Fletcher: Thank you for your presentation. You are really concerned with the enforcement aspect of this and I remember hearing about a story in Powassan of 30-some violations. This could probably be part of the reason that you want the enforcement. Can you expand on that?

Mr Montgomery: This is just a prime example of situations that are happening throughout the province wherein people are being charged for illegally opening and the fines are small enough that it really does not matter to the person. You have \$1,500, \$1,600 worth of fines here, right? And it really does not matter, he just keeps disobeying the law. Obviously it is not having any impact on the legal aspect of the legislation.

Mr Fletcher: About the store in Powassan, he had 30-some fines and violations and was charged with one and the rest were dropped. Is that my understanding?

Mr Montgomery: I thought he was charged 33 times, fined in one charge, and the other 32 were dropped.

Mr Fletcher: What was the cost of the fine?

Mr Montgomery: Five hundred dollars.

Mr Fletcher: For 33 violations and only one was charged and that is under the previous legislation.

Mr Montgomery: That is right.

The Acting Chair: Mr Montgomery, you had one more comment?

Mr Montgomery: That is what I wanted to bring forward. Your colleague picked it up.

The Acting Chair: Mr Miller and Mr Montgomery, on behalf of the committee I would like to thank you for taking the time out this morning and coming and giving your presentation.

Mr Sorbara: I thought there was a request to allow them more time.

The Acting Chair: That was used up.

Mr Sorbara: Oh, was it?

The Acting Chair: Well, it was 30 seconds.

ELK LAKE AND DISTRICT
CHAMBER OF COMMERCE

The Acting Chair: I would like to call forward our next presenter from the Elk Lake and District Chamber of Commerce. You will be given half an hour for your presentation and you can either use the full half-hour for a presentation or you can cut it shorter and allow time for questions and comments from each of the caucuses. Could you please identify yourself for the record and then proceed.

Mr Pinkerton: I am Garfield Pinkerton, president of the Elk Lake and District Chamber of Commerce, owner of the Elk Lake Lodge Hotel in the tourist industry.

I see my colleague from the Ontario Hotel and Motel Association was here and made a presentation, so I will not go through exactly what he covered. The one thing that the chamber really wanted was to not be the buffer zone in any disputes on opening on your tourism criteria. They would also like to know what terms of reference you are using for tourism criteria.

I will ask these questions after when we get into question period, but tourism, as my colleague had stated, has changed drastically in Ontario in the last few years. In our area we have noticed a drop of tourism, in some places 15% to 30% this year so far. We have found that we do not have the travelling tourist that we used to have in bygone years. The tourist today wants to know exactly what it is going to cost him when he leaves home and until he leaves your tourist establishment and goes back.

Businesses are starting to advertise in Europe and the United States. We have changed our snowmobiling in the winter to accommodate travellers coming from the United States through Sault Ste Marie to Hearst and from Hearst they come down through our area, through Temagami, back around, over to Sudbury, Sault Ste Marie, back up and then load the stuff on the Algoma Central Railway and go back. In tourism of this type there are going to be a lot of changes in businesses. Businesses are going to have to remain open to accommodate the machinery that they are using and equipment that breaks down.

Another type of tourism we are finding is tourists that come in and buy a piece of property, build a cottage. They are from the south and they have 14 days' holidays. When they come up, if there is anything deteriorated over the years they have to be able to buy the products any day of the week to fulfil the obligation of keeping that camp ready for the next year.

Like I say, if you try as the chamber of commerce to set the criteria or to help set the criteria, it would have to be done prior to a tourist season whereby businesses are going to be allowed to be open. In some areas in our place, we have businesses that are phoned on a Sunday—"I need a door, I need pipe for my sewage system, I need this, I need that"—and hardware stores will open, the lumber yard will open to accommodate them. But I do not feel they will do

this if legislation is in place that they are going to be fined, as the different types of unions have said to me, if they are going to do this.

I think we are going to have to take a very close look at this. I was talking to one of the young ladies from the tourism and she was telling me that you had gone with the Canadian Federation of Independent Business and had talked to it in setting some of the legislation. I think you should go back to them and on their voting system, their mandate system, have them put some of this in whereby tourist operators have a say, because this goes out to all the tourist operators pretty well across northern Ontario. This way, you are getting the few in my area from the tourist association and the chamber of commerce, but you are missing a lot of the other areas, outpost camps, stuff like this, that need the areas for shopping, when people are going in and coming out. They come at all different times, nights and days, so I think this is one thing that you are going to have to look at very closely.

Like I say, the chamber does not want to have any part in the acceptance of that and I do not believe the municipalities I have talked to do either. Rather than go through everything that has been covered in the bills, I think this whole thing is down as to having the Lord's Day as a day of rest, but there still has to be a certain amount of business carried on to keep the economy moving in the province.

1130

Mr Jackson: Thank you for your presentation. I recognize that you did arrive early today and have had the benefit of watching the previous presenters. I appreciate your focusing on some areas that have not previously been covered this morning.

In your district, do you have a business improvement area or—

Mr Pinkerton: We are an organized township. We have a municipal council of which I am a member.

Mr Jackson: The legislation calls for a chamber of commerce, the local improvement area, business improvement group or tourism and recreation board. Is the chamber the only—

Mr Pinkerton: That is it.

Mr Jackson: Okay. That is what I wanted to establish.

We have heard from previous chambers that they would only approve members of their chamber and would hope not to have any part of being called upon to make decisions on behalf of non-chamber members.

Mr Pinkerton: Yes, I understand that. I had this question asked of me because in our area we have a sawmill and they have tourism tours. The fellow said, "Would you sanction me to run the sawmill on Sunday?" I do not think I would want that option. I would likely be shot.

Mr Jackson: The other point was that it would be suggested that the chamber would routinely pass them to avoid any acrimony or any misunderstanding or any potential litigation.

Mr Pinkerton: This is one of the things that people do not want, the chance of litigation coming back on the shoulders of the chamber. Most chambers up in our area

do close down over the summer because everybody is pretty well in the tourist business, other than the bush workers so it is pretty hard to get anyone in. Like I say, if you had to open up on a Sunday or anything like that and you phoned the chamber, we do not have a chamber that operates all summer.

Mr Sorbara: First of all, can you just describe to us again the area that is covered by the Elk Lake chamber and your territory?

Mr Pinkerton: We cover Elk Lake, Gowganda, Shining Tree and Matachewan. These are all small tourist areas. The only actual industry is the sawmill in Elk Lake. They haul timber from up the other side of Shining Tree. That is just about it. The rest is all tourist camps and a little bit of mining.

Mr Sorbara: If the province in its wisdom allowed the good people in those communities to decide for themselves whether a store could or could not open on Sunday, do you think that would have a negative impact on the quality of life in your communities? Do you think you could exercise that responsibility with maturity?

Mr Pinkerton: I think most people are not going to stay open if they are not making any money. The whole object of owning a business is to make a profit and keep yourself in a half-decent lifestyle. I do not want work 24 hours a day if I do not have to.

Mr Sorbara: What about the people who work in those stores? Do you think they can make a decision for themselves as to whether they want to work on Sunday?

Mr Pinkerton: They make decisions every other day of the week. If they are partying and do not come to work in the morning, if they did not want to work on Sunday they sure would not show up either.

Mr Sorbara: If they chose not to work on Sunday, do you think the employers in your communities would take retaliatory action—fire them, discipline them or give them the night shift or something like that?

Mr Pinkerton: It would be pretty hard to do because it is pretty hard to find employment in these areas to begin with, so the employer and the employee work pretty close together.

I always say to my employees—I am in the liquor industry plus the food industry and accommodations; I have canoes and everything else that goes with it—"If you get into the partying a little bit too much, don't bother showing up; just phone me and let me know and I'll go and get somebody quick, or if you can send somebody in to replace you, all well and good."

Mr Sorbara: In other words, if the government simply withdrew this bill and left the decision up to the municipality, things would not be so bad in Elk Lake.

Mr Pinkerton: I do not know whether the municipal government would want to sanction this here. This is the problem we are having. Take a look at last year. We had this same fiasco, and they threw it over on to the municipalities, and the municipalities said no, they did not want that responsibility.

Mr Sorbara: So if no one had it except for the storekeeper, that would be the best of all?

Mr Pinkerton: I do not know. We will have to look at it. I can speak for myself. If I do not make any money, I do not want to be open. I would just as soon close if there is nobody there. Why aggravate myself and pay hydro and water bills?

Mr Sorbara: But the point of this legislation is that the provincial government under this bill wants to tell you that you have to close.

Mr Pinkerton: But why should I have to close?

Mr Sorbara: Well, that is what we cannot quite understand either.

Mr O'Connor: I want to thank you for coming here today. To further elaborate on what Mr Sorbara has raised in the geographic location, could you expand on what the economic makeup of your area is, the businesses?

Mr Pinkerton: We have a sawmill, we have three logging contractors. In the small communities on Highway 11, within a 30- or 50-mile radius of us, we have a waferboard plant, we have Dymond Clay Products Ltd. This is the whole of the district, but in our immediate area we have mostly tourism and the sawmill. There is a small bit of mining exploration going on, but it is very minute due to the Indian land costs.

Mr O'Connor: So is your chamber made up of representatives of different businesses as well as retail?

Mr Pinkerton: Yes. Pretty well everybody in the area is a member of the chamber of commerce, any business.

Mr O'Connor: And how large would the retail portion of that be in the makeup of your chamber?

Mr Pinkerton: We have a couple of grocery stores—they are small stores—a hardware store, a lumber yard.

Mr O'Connor: When the issue came up and before you came before us, did you do any polling or bring it up at a chamber meeting to try to get a feeling from the chamber of what it felt with this legislation?

Mr Pinkerton: They had talked about the fact that if somebody needs a pipe for their septic system, they want to be able to go and get it.

Mr O'Connor: But you never did any actual polling?

Mr Pinkerton: No. We are so spread out that in the tourist season you have a hard time getting to all your members, because we close down for the summer. I just hit the immediate ones in Elk Lake and Matachewan, and I talked to a couple of others on the phone, because you just do not have time to get out and they do not have time to come in.

Mr Fletcher: From what I understand you would like your municipality or your area to remain open to help the tourist industry. If your lodge or what have you needs something, they can go to the store and pick it up if it is for plumbing or something like that. Is that a correct assumption?

Mr Pinkerton: We have to, because in the last couple of years we have lost pretty well all our major employers in the area. We lost two mines, a sawmill; the lumber industry is down, and the construction industry. We have to do everything we can to keep the area going.

Mr Fletcher: The draft regulations for retail business in the second part say the retail business establishment "shall be in an area that meets the tourism criteria set out in subsection 1(2)." One of the characteristics is that it "provides goods or services necessary to tourist activities in the area served by the establishment." So basically, we are meeting your needs if the stores that you need to promote and enhance your tourist area can remain open. That is what the provision is saying.

Mr Pinkerton: Yes, but you have the unions fighting to keep them closed.

Mr O'Connor: Right. But under the tourist exemption—

Mr Pinkerton: This is where you are going to have your battle.

Mr O'Connor: I do not want to—

Mr Pinkerton: No, I do not want to believe that either. But I am saying there are things that are going to happen—

Mr O'Connor: One of the things the unions are saying is, "We just want the right to refuse to do the job," and also the other part as far as the enforcement is concerned. But under the tourist exemption, if you are providing goods or services necessary to tourist activities in the area served by the establishment, then you are meeting that criterion. So that criterion is there for your purpose.

Mr Pinkerton: That is okay, but when it comes to landfill, where people come up for six, seven or eight days, they need trucks; they have to have a bulldozer, a front-end loader. Does this come under your tourism criteria?

Mr O'Connor: If it is there to provide for your tourist area, then maybe it does.

Mr Pinkerton: The one question is, what are your terms of reference for the tourism criteria?

Mr Sutherland: Just give me a little bit of history in your area. Basically you have always had Sunday shopping. The businesses and the operations there have operated on Sunday to meet the needs of the people coming in for tourism, yes?

Mr Pinkerton: They try to, yes.

Mr Sutherland: Do you know of anybody in your area who has been charged for opening on a Sunday?

Mr Pinkerton: Nobody in our area has because we have very few policemen.

Mr Sutherland: Fair enough. But here the tourism criteria are broad enough that they should allow all the operations in your area to open on a Sunday.

Mr Pinkerton: This depends on what your criteria are.

Mr Sutherland: Are any of the businesses in your area unionized? You expressed concerns about what they were saying.

Mr Pinkerton: Yes, some of them are.

Mr Sutherland: The grocery stores?

Mr Pinkerton: No. These are small. They are in the vicinity.

Mr Sutherland: I guess based on the information before us that the tourism criteria are broad enough.

Mr Pinkerton: In some areas. There is one area that it is not. We have a fairly large bookstore right on the main highway. I think it is 216 or 261 square feet of floor space in order to keep a bookstore open or closed. The one we have on the main highway is known throughout the north for its books and it should be open because that is where tourism does go.

Mr Sutherland: But with some minor exceptions, things are not going to change that much for the group that you represent with this new legislation?

Mr Pinkerton: No, I do not believe so.

Mr Sutherland: So Mr Sorbara's comment that this legislation is going to tell you to close down is very inappropriate and would not seem to be correct based on what you have just told us, where things are not going to change. Those who have been open will continue to be open.

Mr Pinkerton: To a certain extent, yes. I am saying as long as your criteria do not change.

The Acting Chair: Mr Pinkerton, on behalf of the committee I would like to thank you for taking time out this morning to come and give us your presentation.

Just a reminder to the committee members that check-out time is 1 pm.

Mr Ceyssens: Mr Chairman, one very brief point for the clarification of members of the committee. A bookstore is permitted to open if it has 2,400 or fewer square feet. It does not have to be quite as small as the gentleman suggested.

The Acting Chair: Thank you, legal counsel. We will now recess for lunch until 1:30.

The committee recessed at 1143.

AFTERNOON SITTING

The committee resumed at 1335.

NORTH BAY AND DISTRICT LABOUR COUNCIL

The Acting Chair (Mr Cooper): I call this meeting back to order. I would like to call our first presenters, the North Bay and District Labour Council. Would you please come forward? The format will be that you will be allowed a half-hour for your presentation. You can either use the full-half hour for your presentation or you can make a shorter presentation and allow questions and comments from each of the caucuses. Could you please begin by giving us your name for the record and then proceeding.

Mr Campbell: Art Campbell. I am the president, North Bay and District Labour Council. On behalf of our labour council, we wish to come and raise our concerns on Bill 115, on Sunday shopping and working. Our North Bay and District Labour Council is pleased to have this opportunity to appear today before this standing committee on administration of justice to present our views on Sunday shopping and working.

First, I would like to commend the government for bringing forward legislation to keep a common pause day in Ontario and providing the necessary restrictions on Sunday shopping and Sunday working. Under the Retail Business Holidays Act, RBHA, at present we fail to recognize the rights of workers to a common pause day. Under the act, we would like the act amended so that it recognizes holidays and Sundays as common pause days, days when most businesses are not open to regular business and days on which most people do not have to work.

Leaving the decision-making to the municipal councils simply does not cut it. There should be more clear and precise direction from our government. It is too vague as it stands at present, in particular the regulations on criteria for the tourist exemption. Under the Retail Business Holidays Act, sections 1 and 2 and section 4.1 of the new amendments are so broad they effectively restrict no one.

Recommended changes to section 4.1 were clearly set out in a brief presented by our brothers, the United Food and Commercial Workers International Union. Our labour council stands behind them; that is to say, only retail business establishments in which the total area used for servicing the public or for selling or displaying to the public in the establishment is less than 4,000 square feet, and furthermore the number of persons engaged in the service of the public in the establishment does not at any time exceed four.

We also take exception to drugstores opening on Sundays and selling non-pharmaceutical or therapeutic materials for hygienic or cosmetic purposes. We have other small convenience stores that are permitted to open on Sundays to sell these items. We are cutting the throats of our small businesses by allowing this to happen. Small businesses in the community are our towns' lifelines. Most are finding it harder and harder to compete with the drugstore openings.

Currently under the act, the act has maximum fines of \$50,000 for a conviction for illegal Sunday openings. Although there are no minimum fines, in most cases the courts

are handing out fines of \$300 or less upon conviction. This hardly gives an establishment that opens illegally on Sunday a second thought on the matter. They should be hit with a minimum of \$10,000 and if that still does not do it, then go to the maximum. Once again, we are talking corporate greed and a sad day always when drastic measures have to be taken to make these violators of the law assume responsibility for their actions. It costs our taxpayers, paying people more to take them to court than what they are actually getting for a fine in the interim. They are laughing at you and me and every one of us.

The amendments proposed by the government to the act would lead to wide-open shopping and working, affecting hundreds upon thousands of workers and their families in Ontario. It is our labour council's belief also, as well as that of the Canadian Labour Congress, the Ontario Federation of Labour and the United Food and Commercial Workers International Union, that these workers and their families have a right to a common pause day.

In conclusion, it is our labour council's intended goal to see that a common pause day is set aside for our retail workers and workers in related sectors and their families. We do not have to drive our families apart. There is enough going on in our society today to take care of that. With Sunday shopping and working we are just adding to the problems of our retail workers and our work-related sectors and their families. Too little precious time is spent on family life. That is part of the reason we see so much failure in the family structure today: divorces, legal separations and so on, so much abuse in our homes. Our labour council strongly believes that maintenance of family values and the establishment of a common pause day can be realized.

The Acting Chair: Thank you. Before we proceed with the questioning, could legal counsel get a clarification?

Mr Ceysens: I just want to ask you one question. I was making some notes on your presentation and I did not get the point about the stores that your organization would prefer to allow to remain open. You said stores staffed by no more than four people and you also mentioned a size and I did not get the size. I wonder if you would repeat that.

Mr Campbell: Four thousand square feet.

Mr Ceysens: Four thousand square feet and four employees.

Mr Sorbara: We have heard submissions from other labour councils and I think there is unanimity among labour councils so far, at least in these hearings, that there should be a common pause day, but there has not been any request that this committee consider expanding this bill to include the right to refuse work by other workers, say in the industrial sector or in other aspects of the service sector. Why is that? Why should we not give an absolute right to refuse work so that we could close down our major manufacturers on Sunday?

Mr Campbell: You have a right to refuse in the workplace as it stands. Believe it or not, a lot of people out there do not have the ability to stand up for themselves. What

we are talking about is our organized labour force in the retail outlets. The other organizations in your small convenience stores and what not, that is their lifeline.

Mr Sorbara: We have this notion of a common pause day. The government says this bill is not about religion and is not about anything but trying to bring about a common pause day. To me, a common pause day would mean that any worker, whether he worked for Abitibi-Price, whether he worked for Sears, whether he worked for the government of Ontario, whether he worked in construction or whether he worked in any profession whatever, would have an absolute right to refuse to work on Sunday. District labour councils have been supporting this notion that the stores should be closed to protect the retail worker, but have not argued for other components of the economy; for example, the auto workers at General Motors. Why should we not give them the same right to a common pause day as we are trying to give to retail workers?

Mr Campbell: We do. We not only speak for the organized workers, but we speak for a lot of unorganized workers as well. We would love to see it right across the board, a common pause day for everybody, but unfortunately the mechanics of the thing are just not going to work that way and it is not feasible to even think or imagine at this time that it would work that way.

Mr Sorbara: Why is it not feasible? Why can we not close down General Motors on Sunday?

Mr Campbell: I would love to see that. You go ahead and do it.

Mr Sorbara: Is that the view of the Ontario Federation of Labour?

Mr Campbell: Pardon?

Mr Sorbara: I am just trying to find out whose view that is. The labour councils have not taken a clear position on whether every worker in the province should be off on Sunday.

Mr Campbell: Again, it is legislation that has been passed and it has been in the mechanics for a while. What we are suggesting is what we would like to see. We would like to see that come down and we would like to see legislation on that come down. We are just saying what our goals are and what our ideals are. Our ideals are that we would like to see a common pause day for everybody, not only the organized but for everybody. But if such is not the case, then we are going to fight for the organized to start with, and when I say the "organized," we also fight for the unorganized at the same time.

Mr Sorbara: What about the fact that about 75% of the people of the province would prefer to make their own choices on Sunday; that is, their own choice whether they work, their own choice whether they shop and their own choice whether they open their stores. In a collective agreement, if 75% of the people vote in favour of the collective agreement, it becomes the binding document. Here we have 75% of the people of the province saying the government should not be regulating in this manner and yet the trade union movement is saying, "Yes, you should." You want to close down the stores.

Mr Campbell: A lot of people do not have the will to stand up for themselves. That is what I am saying. They would sooner say, "No, we don't want to work on Sunday," but there is intimidation, and unfortunately intimidation is part of our everyday lives, especially in the workplace. When you tell your employer, "I don't want to work on Sunday," then he makes it hard for you. What are these people going to do? They have no choice but to work on Sunday. They do not want to, but they have no choice.

Mr Sorbara: Would you be surprised if I told you that the only people who have taken that view in these public hearings, that employers are greedy, that employers intimidate and that employers will find some way to coerce you to work, are the United Food and Commercial Workers and district labour councils?

Mr Campbell: I do not believe that at all, not for one minute. We are looking out for the rights of these people. A lot of people do not know what rights they have and they are intimidated into it, especially by their employers because their employers figure these people are going to work and if you are not going to work, they do not come right out and say, "You haven't got a job here tomorrow," but they make it damn well impossible to keep on working there.

Mr Sorbara: What do you say to the view that you really cannot do more than give workers the absolute right to refuse in the law? That is part of the law of Ontario. Are you telling us that this is going to be of no force and effect, and notwithstanding that, any employee who refuses to work on Sunday is going to get harassed by the employer?

Mr Campbell: No. What effect does it have now? We have the right to refuse in the workplace now.

Mr Sorbara: Under what? How do you have the right to refuse?

Mr Campbell: You have, under section 25, the right to refuse unsafe work and stuff like that.

Mr Sorbara: Certainly you have the right to refuse unsafe work.

Mr Campbell: Under this business, but if you give a right to refuse, that is fine for that Sunday, but next Sunday you will not have to worry about working next Sunday because come Monday you will not have a job.

Mr Sorbara: Do you think that is the general standard in the business community?

Mr Campbell: That is what the businesses tell their employees. They do not come right out and say it, but they make it well known that that is what will happen in the end.

Mr Sorbara: We have had perhaps 30 employers come before this committee who have said to us: "I would never require anyone to work on Sunday. I respect the right of my employees to make that determination and in fact I try to accommodate my employees to the greatest extent possible." Are they misleading this committee? Are they not telling the truth?

Mr Campbell: If they felt that way about their employees, why do they want to open on Sunday to start with?

Mr Morrow: I would like to just clarify one thing that Mr Sorbara brought forward about industrial workers

working. We are dealing with the Retail Business Holidays Act here and I thought that was what these hearings were about.

I would just like to ask you a few questions if you do not mind. My impression is that Sunday shopping did not actually create jobs, but the hours of work were just more spread out. Can you comment on that.

Mr Campbell: Not speaking for other towns or municipalities but speaking for my own here in North Bay, when the stores did open on Sundays for a little while, a lot of the stores were losing business. They were not making as much business and it was useless for them to stay open. We got this from a lot of management.

The only reason they had to stay open was because they got it from their head office that they had to stay open because their competitors were opening, that if their competitors were shut down, they would shut down. A good case of that would be Zellers. If Zellers had shut down, no other retail store in North Bay would have been open at the time, but because of corporate greed—like I said, it all comes back to corporate greed—and because this sector would not shut down, then the rest had to stay in line with everything else.

Mr Morrow: How many workers do you actually represent? I should also add that the mayor of this fine town agrees with that last statement.

Mr Sorbara: On a point of order, Mr Chairman: The presenter's last comment was to the effect that it is all about corporate greed. My friend Mr Morrow has just put on the record that the mayor of North Bay agrees with that view. Is he telling us that the mayor of North Bay told us that it is all about corporate greed? That would be a gross misrepresentation of what we heard this morning.

Mr Morrow: No. What should have been said there is that he agrees that the big stores want to stay open. I assumed that is what the presenter was saying.

How many workers does your local labour council represent?

Mr Campbell: I do not have an exact figure, but we have 60 affiliates of our labour council and it goes anywhere from 60 employees up to 100 and some employees.

Mr Fletcher: It is good to see you again. I just want to get back to some points we were talking about before. You were talking about being coerced. Mr Sorbara said that is not going to happen and everything else. Mr Sorbara should know because he was once the Minister of Labour in this province.

One of his colleagues who stood by him at the time when he was Minister of Labour—a good friend of his, Mr Rick Ferraro, who used to be the member for Guelph—stated publicly: "Employees are jeopardizing their jobs by refusing to work. An employer will eventually find someone who is willing to work on Sundays." That came from a colleague of Mr Sorbara. That came from someone who stood by this person in the government when it was passing its legislation to protect the workers in this province. I think he is fully aware that there is coercion that goes on in the workplace and that there is a need for protection.

What kind of protection, as far as this bill is concerned? Do you see it as being adequate protection or should it be strengthened?

Mr Campbell: I guess there are always safeguards to be taken and you can never add too much to anything to look after the people and their rights. When you are talking about coercion, he is talking to management and I am talking to labour. I get a different story from labour than he is going to get from management, obviously. I have lived it. I have gone through it. I know for a fact, because my wife was working and they told her that if she did not want to work on Sunday, she may as well pack it in now and not come back to work on Monday. She is working part-time now instead of full-time.

Mr Sorbara: Could we know at what business establishment that was?

Mr Campbell: I do, but I am not going to bring it up here and now.

This is in fact taking place. The companies can tell you that they are not doing that, but when you are on the work site, I know for a fact it is taking place.

Mr Fletcher: You do not want to publicly state it. Why not?

Mr Campbell: Because my wife is now back working and I cannot afford for her to lose a part-time job now. I have been out of work for two years myself. If she loses her part-time work, I am done.

Mr Fletcher: Yes, I know. Again, we are talking about coercion and the threat of losing the job if it is publicly stated.

Mr Campbell: That is right.

1350

Mr Lessard: You know that the mayor, Stan Lawlor, was here this morning and expressed his thoughts and the thoughts of city council with respect to this matter. Have you worked with them in formulating their position on Sunday shopping?

Mr Campbell: No, I have not. We have been out on separate issues. We have lobbied over Sunday shopping and the mayor was in full support of that at the time, although I guess he could not very well jump out there in public, but he did agree in principle with what we were doing.

Mr Lessard: He indicated that there is a lot of support in this community for the concept of a common pause day. Do you get that feeling?

Mr Campbell: Yes, there is. We are a small community. We are not like Toronto. We do not have two million people. We have 50,000 people. We are a small community and we need some time together with our families. Our family structure is suffering today, and not only because of Sunday working and shopping. It adds excessively to the pressures put upon them if they are forced to work on a Sunday. Our family lives are deteriorating terribly around here. We do not have the demand that Toronto would have with two million people. We have 50,000 people and the demand is just not that great for Sunday shopping.

Mr Lessard: If I understand your submission, you said you would like to have a common pause day for all workers in the province. That is the ultimate goal, but you have to be reasonable in dealing with some seven-day operations; so through collective bargaining you try to get as much right as you possibly can for people to have that common pause day. Is that not right?

Mr Campbell: That is right.

Mr Lessard: Your concern is for people who are unorganized and who do not have the opportunity through collective bargaining to get that protection.

Mr Campbell: Unfortunately, a lot of these people are not able to stand up for themselves. We not only speak for the organized but we also speak for the unorganized. When we try to get something for one group, we try to get parity for the other group. We do not favour one group over the other because we are organized and they are not. What we would like to see is everybody having the same thing straight across the board. We have always fought for that.

Unfortunately, the stores I am talking about are small convenience stores, corner stores and stuff like that. These are seven-day operations; they have been in existence since I do not know when. But that is their livelihood and that is how they have maintained their stores. Like I say, a common pause day we not only argued for the organized but also argued for the unorganized who do not have an opportunity to speak for themselves.

Mr Sutherland: Mr Sorbara referred to a survey indicating that 75% of the people support Sunday shopping. I have not seen one that says that. I think the statistic I heard was 57%, but at the same time we hear—

Mr Sorbara: You have not been on the committee except for today.

Mr Sutherland: I do try to keep up on things and I have not seen that, but maybe that is the case.

We also have a survey which says 67% of the people do not want to work on Sunday. What do you think the results would be if you combined those two questions? If you said, "Do you favour Sunday shopping if you had to work on a Sunday?" how many people do you think would support Sunday shopping then?

Mr Campbell: Speaking for myself—I do not know how everybody else thinks—if I had an opportunity not to work on Sunday, I would not work on Sunday.

Mr Sorbara: We have a few more minutes and I would like to ask the witness a couple more questions if that is possible. We have not used up the full half an hour yet.

The Acting Chair: Go ahead.

Mr Sorbara: I am concerned about what you said about the situation that your wife was in with her employer. I appreciate that you want to maintain anonymity for her and the employer, but it seems inconsistent to me, particularly given your position on the district labour council.

I was Minister of Labour for some two years and I know the kind of problems that arise in the workplace. Workers have hassles with workers' compensation claims, for example. If a worker has a workers' compensation

claim, do you advise the worker not to bring it up because he or she is going to get hassled by the employer?

Mr Campbell: First of all, I would like to ask you what that has to do with Sunday shopping.

Mr Sorbara: It has an awful lot to do with Sunday shopping because the law says that employers shall not do that. That is a violation of a law passed by Parliament almost three years ago; that kind of intimidation represents a violation of the standards that we have established in this province. There are other standards as well, like workers' compensation, unemployment insurance, vacation pay and certainly health and safety. It seems to me that the responsibility of a district labour council is not to advise workers to bury the complaint for fear of being hassled, but to pursue the complaint.

If a worker is not getting a just return from the workers' compensation system, then you have the responsibility to pursue that, and the same goes with unemployment insurance, and the same goes with just about every other right of the worker in the workplace. Surely to God, you cannot be advocating that workers not pursue their claim to refuse an unreasonable assignment of Sunday work.

Mr Campbell: I certainly can because I am in that particular circumstance myself, and that is what prohibits me from doing this. If it was under other circumstances, I would agree wholeheartedly with you. But I have been in a labour dispute for the past two years and I have not worked for two years. I get \$80 a week strike pay, and if I lose my wife's part-time work, then I am up the creek without a paddle.

I do not care to divulge that information right now because I have to do whatever I can to survive. Under normal circumstances I would be fighting tooth and nail. But with all the bureaucracy that goes on around here, and being on strike, everything I do is an uphill battle. You know, you can only take so much. An extra straw can break the camel's back. I am dealing with all that I can deal with right at this time.

Mr Sorbara: The point I am trying to make is that I hope you would not leave the impression—and the fact is that other labour organizations have left the impression—that it is no use putting up a fight to refuse unreasonable work, or to win an absolute right to refuse, because employers will ignore it. The guy who is now the Minister of Labour, the member for Hamilton East, used to say that right was not worth the powder to blow it to hell. Now he has got it in one of his own bills.

I say to the labour councils: If that is the worker's right in the law, then by God, let us enforce it. Let us make sure that everyone who wants to refuse an unreasonable assignment of Sunday work exercises that right, and that his brothers and sisters in the labour movement stand up with that worker. I am surprised that the district labour councils are saying it is no use putting it in the law because employers will disregard it, and you cannot enforce it. You can, and you have to.

Mr Campbell: We cannot do this alone. We need your help also. We look for input from wherever we can get it.

Mr Sorbara: That is why we put it in the law, and that is why these guys are putting it in the law.

Mr Campbell: We comply with whatever legislation comes across. If it is in favour of our brothers and sisters who are working, then we will stand up and fight tooth and nail for it. No problem about that.

Mr Sorbara: Good. Let us start enforcing it. I do not believe employers are driven by corporate greed, and I do not agree that most employers will retaliate against an employee who refuses an unreasonable assignment of Sunday work.

Mr Campbell: Obviously, you have not been in the workforce for a while.

Mr Sorbara: But I do agree that if an employer does that, the worker has a right, and the worker's right should be enforced, and district labour councils and trade unions ought to help those workers enforce those rights, whether or not they are trade union members.

Mr Campbell: You have a point there. But, again, when you come down to the retail sector, a lot of them are not organized.

Mr Sorbara: I know, but that should not matter.

Mr Campbell: It should not, no. Like I said before, we fight whether they are organized or not organized. If they come to me with a problem, and I can help them, I will. But when you get to an unorganized business, and the management tells them, "Either you work or you are fired," a lot of these people, because they are unorganized, do not know they can come to their North Bay labour council or their MPP or whatever. They just figure, "Because I am not organized, these guys have the last say."

It comes down to intimidation again. The bosses can intimidate the workers. It happens.

Mr O'Connor: One thing we have heard from Mr Sorbara, and one thing that needs to be brought up, is the fact that most of the employers who have come before us have stated, without question, that they believe they would never interfere with their workers' rights. Coming from a trade union movement myself, I sometimes wonder why there is a trade union movement, why there is that need. If all employers are truly as honest and representative of what we have seen—do you feel that maybe some sort of bias is being put before us?

Mr Campbell: You know yourself, if you have gone through collective bargaining, what happens there. You had to fight for everything you got in there, and if you do not continue fighting, the company tries to take it away from you.

We have a new owner who took over the company 12 years ago, and who is now trying to take away everything that we gained over the past 23 years from the previous employer. You cannot tell me they are looking out for the rights of the worker. What they are looking out for is to line their own pockets.

Mr O'Connor: There is one more thing to be brought up under employment standards, and I would like to pass that on to my fellow member.

1400

Mr Fletcher: In the legislation that was passed by the previous Liberal government, the Employment Standards Act provides retail workers a general right to refuse an assignment of Sunday work which they consider unreasonable. If there was a dispute, it was up to the employee to fight like heck to get anything.

That is one thing about this bill: It gives an absolute right to refuse. I think that is the difference. I know what it is like when you have a right to refuse unsafe work and the hoops and barrels and everything else that you have to go through. You can still be disciplined and be fighting it for years.

Mr Campbell: Just to stop you for a second, when you have the right to refuse in the workplace, you know the employer can go to the guy just below you and ask him to do the same job, and intimidate him because he does not have the knowledge you have of why you are refusing the job. Again, it comes down to intimidation by the management. They will get whoever they can to work, however they can.

Mr Fletcher: The amendments to the Employment Standards Act under this bill give employees the absolute right to refuse work, not just unreasonable work.

The Acting Chair: Mr Campbell, on behalf of the committee, I would like to thank you for coming out this afternoon and taking the time to do your presentation.

Mr Sorbara: Mr Chairman, just as we are bringing up the next witness, on a point of order: I noticed that in Mr Fletcher's line of questioning earlier on, he referred to a quotation from the former member from Guelph, Rick Ferraro. Perhaps it is not directly a point of order, but it really does reduce the standards of this committee when Mr Fletcher tries to attack my line of questioning by somehow suggesting that the person who is indeed my friend, and a former member of this Parliament, took a view that is perhaps slightly different from the view I am taking in my questions.

I have not fully expressed my views about this bill. I do not intend to do that until such time as we finish the public hearings. I have tried to ask questions that probe and challenge witnesses. I do not mind if Mr Fletcher wants to continue to dig out quotations from former members. That is an interesting exercise. But I just want to put it to you, sir, that it reduces the standard of questioning that we are trying to maintain in this committee. I wanted to put that to you, sir, in the form of a point of order.

Mr Fletcher: We will remember that in question period.

The Acting Chair: Point well taken, thank you.

ONTARIO MARINA OPERATORS ASSOCIATION

The Acting Chair: Our next presenters will be from the Huntsville-Lake of Bays Chamber of Commerce. They are not present yet? In that case, can we have the Ontario Marina Operators Association? You will be allowed one half-hour. You can use that for your presentation or give a shorter presentation and allow time for questions and comments. Would you please identify yourself for the record, and then proceed.

Mr Mackenzie: My name is Bruce Mackenzie, and with me is Bill Paris who is president of the Ontario Marina Operators Association. I am the vice-president of the association.

I would like to thank you on behalf of the 400 members of the Ontario Marina Operators Association for allowing us to be here today to present our thoughts on the Retail Business Establishments Statute Law Amendment Act.

Ontario is home to approximately 700 marinas and many of the parameters that control the marine industry are common to the tourism industry. They are: the need to operate our seasonal businesses on any day of the week, and the need for all businesses that affect tourism to be free to open seven days a week. We are not here to speak to the history of Sunday shopping versus any other day. Today we are here to speak to the importance of tourism, and how the marine industry is important to Ontario. We are here to speak to the need for Ontario to be able to compete equally with our neighbours to the south.

Historically, marinas have been able to operate freely because they have been considered tourist-orientated. But for the marina industry to thrive, and the tourist industry to grow, the whole province must be conscious of the need to service all types of tourism, and the importance of retail shopping to the attraction of tourists. The marine industry in Ontario is primarily a seasonal business, as are many tourism businesses in Ontario. It is not our choice for the marine industry in Ontario to be seasonal. It is dictated by our climate but, because of our tremendous water resources, the marine industry and water recreation are a very important sector of Ontario's economy.

Because boating and related activities are seasonal, there is limited time for the citizens of Ontario and tourists from outside of Ontario to make use of our waterways. On top of the short season, much of our society is weekend-oriented for its recreation. This is unfortunate, for it only allows two days for the tourism industry to offer our services. If any one of these days were removed, it would have devastating effects. On holiday weekends the situation is worse, with only one day to carry out business when the potential is for three.

Many marina operators see up to 80% of their business carried out on weekends. This cannot be done in one day. Service facilities could not handle the crowds and the quality of experience for all would go downhill. And what about the members of the public who only have Sunday available to pursue their recreational interests? The marine industry, like all of the tourism industries, must be available to provide its services when they are required by the public.

Many of us in the marina industry work with a 12- to 16-week season, and because of school vacations being restricted to July and August, some members of the tourism industry are looking at an eight-week season. These shortened seasons make it even more important for the service sector to be able to operate seven days a week.

Revenues must be obtained at every chance available in our short seasons, because without the revenues we cannot continue to employ staff, put funds back into the facilities and produce a profit which attracts new investments and developments.

I am sure this committee will hear from representatives from Tourism Ontario, and about how many jobs are involved in tourism in this province and how many dollars are involved. Tourism is big in Ontario and has unbelievable promise, but it can be killed. Our short seasons, high levels of taxation and high cost of gas has put a tremendous damper on tourism and we do not need any new road-blocks. Look carefully. Our season is condensed into 12 or 16 weekends. No one can afford half of this time to be lost.

The free trade agreement was not an act of Ontario, but because we are in Canada and our biggest trading partner is the United States, we have to be able to do a better job to compete with them. Why? Because if we lose out to the competition south of the border, not only do we not get American visitors, but we will lose out on overseas visitors. And worst of all, we will lose our own citizens and their tourist dollars.

Look at our climate. Every state south of Ontario has a longer tourist season because of warmer climates. Florida, in the Sunbelt of the southern United States, can attract visitors 12 months of the year. Do you think they are looking for ways of reducing services to tourists? No, they are not. They are doing everything they can to increase their tourist dollars, whether they are generated from within each state or from out of state.

Tourism fits very well into Ontario's goal of sustainable development. There is very little consumption of resources. Oh, they are used, but not in the way primary resource extraction and manufacturing uses them.

Look at our norther communities. Temagami was a mining and lumber centre. It is a bust. Why? Because the resources these industries counted on were finite. But tourism can go on for ever and create more jobs, and they will not go away next year like forestry jobs. Better still, look at Midland and Collingwood: Shipbuilding has gone and the grain industry has dwindled in the Great Lakes, but tourism and recreation are providing jobs in those communities.

The lakes will remain. Fish and wildlife can be self-sustaining. Take a look at the Kawartha lakes. What generates more jobs there, lumber or tourism? The growth in centres like Huntsville and Bracebridge is not based on lumber any more; it is based on tourism and recreation.

Tourism, because of our magnificent waterway heritage, is often water-oriented. The marine industry and marinas are the gateways for these resources on a continuous basis during our short seasons. These gateways work two ways: First, they provide our citizens with access to our waters; and second, they are the front door for American visitors to the communities on the Great Lakes and our heritage canal systems.

1410

The days are long gone when Ontario can act as if it is isolated and so powerful that it can enact laws that put its economic potential at risk. If each municipality in Ontario is given the power to decide what is a tourist area and what is not, then we are afraid the province of Ontario will become like the tower of Babel and will eventually fall under its own weight. Ontario must assure all businesses that they can operate under the same rules no matter where they are in the province. How can we expect businesses to feel welcome in Ontario if the businesses must deal with

the personality of each different municipal council? Ontario cannot reach its full potential in tourism if tourist areas are just spots on the map.

The question of cross-border shopping is very disturbing to Ontario's economy. Look at Sunday shopping and our blue laws. This is just another reason why cross-border shopping is so prevalent.

Ontario must stand back and take a fresh look at its position in the global marketplace and realize that it must clearly present itself to the world as having open doors to tourism. Ontario must recognize itself as a tourist area and let the marketplace make the decision for businesses, when to be open and when not to be. Tourism is the third largest industry in Ontario and we should be here today encouraging it, not whittling away at it.

When we look at other industries like manufacturing and transportation, there is no common pause day, and the concept of it is as inconceivable for these industries as it is for the hospitality industry. The province of Ontario must recognize the fact that the retail business is not isolated from the rest of the economy and the tourism business. It is a vital part that cannot be turned off.

Ontario marinas and the tourism industry must provide uninterrupted service to our patrons seven days a week all year or for however long our season is. Our employees willingly accept this fact as a precondition to employment in an industry which is totally dependent on good service, goodwill and professional hospitality. Employees in our industry are treated with dignity and respect by employers whose businesses are so dependent on staff attitude.

The vast majority of workers in Ontario, including retail establishment employees, are protected under the Employment Standards Act. It is very costly for employers to hire and train staff in our industry and most others, and it is in their best interest to operate well within the existing labour laws. Any employee can be asked to work at any time by employers beyond normal working hours, and many are anxious and willing to do so. However, no employee can be discriminated against for not accepting work outside of normal working hours. Thus there is no need to establish any new law to protect worker interests beyond that which already exists, particularly one which is totally biased and discriminatory in favour of one type of worker.

The government and the people of Ontario must recognize how many thousands of jobs would be created if retail shopping were allowed to operate freely seven days a week. While some people may be trying to protect certain working conditions of some retail employees, this exercise could end up to be terribly upsetting to the employee when the job disappears outright because the employer can no longer compete.

Recommendations:

1. That the Ontario government recognize the value of retail shopping as an important factor influencing tourism in Ontario, and that Sunday and holiday shopping has become an economic necessity for many citizens of Ontario as they struggle to balance working realities with personal and family responsibilities.

2. Remove the possibility of municipal governments to create a hodgepodge of regulations and a very disjointed picture of tourism in Ontario.

Please remember that Ontario tourism can continue to be one of the key industries in this fine province in the future, but not if we continue to throw up roadblocks to its growth. We are part of a global market, and I am afraid this market does not stop for any day and especially not on a weekend.

This committee and the government of Ontario have a difficult decision to make if you look at what has happened in the past. But if you look to the future, with an expanding global economy, free trade and the need for an expanding tourism industry that will provide long-lasting, self-sustaining, fulfilling jobs, then the decision before you today is easy.

Mr Daigeler: Thank you for your presentation and for appearing before us. After two weeks of hearings that we have had now, I almost have the impression that this is shaping up as a battle between the union movement on the one side, and the hotel and motel and tourism-related industries on the other side, the one arguing, "We have to stay closed," and the other one saying it is extremely important for the survival of the province, for economic prosperity, to stay open.

I am trying to get a sense as to where that urgency on your side is coming from at the present time. Would you have made the same kind of presentation with the same kind of urgency some two or three years ago when our side, the Liberal side, made some changes to the Sunday legislation?

Mr Mackenzie: I do not see any difference between my stand on the industry today and where it would have been two or three years ago. We feel basically that Ontario sometimes and in some areas shuts its doors to tourism. We do not compete equally for tourism as some of our competitors do. We are here today asking the committee to look at the possibility of allowing businesses to compete freely with our competitors and provide the services our visitors and the public rely on or require.

Mr Daigeler: Would you be able to tell me whether your colleagues had the same kind of view you had two or three years ago? Has it always been a strong consensus within your industry that Sunday shopping should be available?

Mr Mackenzie: I cannot speak for the whole tourism industry, but I think I can speak for myself in two ways: one, again back to being able to compete and to being open when a person or a business is required to be open; two, as a person who has worked weekends half the year for the last 14 years, I enjoy working weekends. I get to enjoy the province on my days off during the week and I do not get tied up in traffic. That is just a little personal note. I do not think the industry has changed that much in the last couple of years.

Mr Sorbara: Are you Mr Paris?

Mr Paris: I am Paris. This is Bruce Mackenzie.

Mr Sorbara: Mr Mackenzie, do you own a business?

Mr Mackenzie: No, I do not. I work for a public agency.

Mr Sorbara: What is the name of that agency?

Mr Mackenzie: The Hamilton Region Conservation Authority. I operate a marina for them.

Mr Sorbara: Do you have employees who work on Sunday?

Mr Mackenzie: Yes, sir.

Mr Sorbara: Do you have difficulty hiring a workforce for Sunday work?

Mr Mackenzie: No, sir.

Mr Sorbara: If an employee refuses to work on Sunday, are you likely to intimidate that employee or change that employee's hours of work?

Mr Mackenzie: No.

Mr Sorbara: What do you do when an employee says, "I'd prefer not to work on Sunday"?

Mr Mackenzie: Generally my schedules are flexible. I operate seven days a week. Some staff have to have Mondays and Tuesdays off and some have to have Saturdays and Sundays off, so generally they are only working five days a week. As I said earlier, the people who work in this industry come to us knowing that we are a seven-day operation and that 80% of our business is done on weekends.

Mr Sorbara: Okay. We just heard from the North Bay and District Labour Council and the witness suggested to us, unfortunately, that this business of Sunday shopping was driven by corporate greed and that there is a significant number of employers who in some way or other will punish an employee who works on Sundays. You are speaking on behalf of the association. In your view, would the employers in your association punish an employee who for one reason or another could not work on Sunday?

Mr Mackenzie: I do not think so. I can only speak for myself and the answer is no.

1420

Mr Sorbara: Do you think other employers that you know in retail businesses punish or intimidate their employees?

Mr Paris: If I might comment on that, Mr Sorbara, I have been in the marine business for 35 years and we have people who choose to work on Sunday and people who do not choose to work on Sunday. That is a ground rule that we have always respected. The majority of our employees are long-time employees and if they choose not to work on Sunday, it has never been problem for us.

Mr Sorbara: Can I ask you then, Mr Paris, in your experience with other employers in the area or other employers in the same industry, is it a standard of practice that employers would accommodate, or is it the standard of practice that employers would intimidate, punish or in other ways mete out some sort of unfair assignment of hours if an employee refused to work on Sunday?

Mr Paris: You would definitely accommodate the employee's wishes. That is why you have long-time employees. Employees that are attracted to the tourism industry obviously feel there may be some obligation to work on Sunday and, if they have a problem with that, we address that problem.

Mr Sorbara: Is it your view that you are in business on Sunday because of corporate greed?

Mr Paris: No, sir, it is competitiveness; it is a short season and it is the economic times.

Mr Sorbara: Are there times when the realities of your business are that you are not going to make a profit and you are not going to make ends meet and you have to absorb the loss at the end of the day?

Mr Paris: That has happened in the marina industry on a quite regular basis over the last couple of years.

Mr Morrow: It was very nice hearing your brief. You claimed that if retail stores were allowed to open seven days a week it would actually create jobs?

Mr Mackenzie: I believe so.

Mr Morrow: Let me read you something and then I will ask you that again. I have a brief here submitted by the United Food and Commercial Workers to the standing committee on finance and economics, April 18, 1991, and I will just read one paragraph:

"UFCW knows that between June and November 1990, 202 full-time jobs disappeared at A&P in Ontario. At Loblaws the total number of hours worked decreased by 3.14% in the period between June and December 1990." Now, remember, December is the prime retail sales time. "In both cases these losses occurred in spite of wide-open Sunday shopping."

Do you still think there would be jobs created?

Mr Paris: What was the date on that again, please?

Mr Morrow: It was during the time of wide-open Sunday shopping, June to December, 1990.

Mr Paris: At that point in time we were in the midst of a recession, and I think, if you look at a lot of segments of the industry, be it tourism or whatever, there was a decrease in shopping because people were tightening up their budgets because of the recession.

Mr Sorbara: On a point of order, Mr Chairman. I am entirely confident that Mr Morrow would not want to inadvertently mislead this committee or mislead the witnesses, but it should be—

Mr Morrow: Excuse me, Mr Chair, who am I misleading?

Mr Sorbara: I am saying I am sure you would not want to mislead, even inadvertently. My friend should point out that during that period A&P was going through a massive restructuring which accounted for most of the job loss. I would not want him to inadvertently suggest that it was due to Sunday shopping.

Mr Morrow: Excuse me, Mr Chair, I am just reading from a brief that was submitted to finance and economics.

The Acting Chair: Go on with the brief.

Mr Morrow: Thank you very much.

I also just want to make it clear—after looking at your recommendations here—that we are replacing the municipal option with the tourism exemption.

Mr Paris: We are well aware of that.

Mr Morrow: I was not sure if you liked the municipal option or not. Do you also agree with the absolute right of a worker to refuse to work on Sunday?

Mr Paris: One hundred per cent.

Mr Fletcher: Thank you for your presentation. Listening to you and also reading your brief, I get the impression that you feel we are trying to take something away from you. That is not the intention of this bill.

This bill recognizes the value of tourism and its contribution to the very activities that we see on a Sunday: the family going out and meeting friends and travelling throughout Ontario. In fact, when I look at the statistics from 1990, travel in Ontario from all origins increased by 18.4% over the previous year. That is what we would like to see, more travel throughout Ontario.

When I read the bill and look at the exemptions, I wonder exactly what it is you are objecting to in the bill. Is it the tourism criteria?

Mr Paris: No, we agree with the tourism criteria the way they are. We realize that we also fall inside the tourism criteria. We believe that some of the government's policies are making it tougher to attract consumers into the province of Ontario. I might just cite one thing. The last budget's 1.7-cents-a-litre increase in gasoline and the 1.7 cents in January converts to between 12 cents and 13 cents US a gallon. How many times do you have to swat the tourist on the head to get him not to come to this province?

Our people are going outside our province to shop in the United States now, and if it takes Sunday shopping to keep our Ontario dollar in Ontario, then that is what we should be addressing. We are exempt and we should have other retail outlets involved in keeping our tourists here.

Mr Fletcher: So Sunday shopping will in some way curtail people from going across the border to shop?

Mr Paris: I believe it will have an effect, yes.

Mr Fletcher: That is strange, because in 1990, when we had wide-open Sunday shopping from June until March 1991, Ontario residential travel to the US was up 21%. That was with wide-open Sunday shopping. So I fail to see the correlation between the two. These statistics come from the Ministry of Tourism and Recreation. Price is the biggest thing that attracts people, not the option of shopping.

Mr Paris: I have listened to some presentations through Tourism Ontario from the hotel and motel association in Toronto. Some of the figures they are quoting of late and over this past winter are pretty devastating, of people not spending their money and tourist dollars in Toronto.

Mr Fletcher: Yes, I know about Toronto.

You were also saying, as far as marinas are concerned—maybe we can get an opinion. Mr Chair, could we get a clarification from legal counsel as to how marinas are covered in the Retail Business Holidays Act?

Mr Ceyssens: Marinas are covered under the exceptions contained in section 3 of the Retail Business Holidays Act in its present form. I can read that section out; it is very brief. Section 3 sets out a list of exceptions and in clause 3(7)(e) one of those exceptions is the servicing and

repair of vehicles and boats. I would be happy to entertain questions to clarify any of that if necessary.

Mr Fletcher: Does it not also include the rental of vehicles or boats?

Mr Ceyssens: It does, in clause (d).

The Acting Chair: Thank you for that clarification.

Mr Sutherland: Just to pick up what Mr Fletcher said, British Columbia has had wide-open Sunday shopping for many years, yet it seems to lead the country in terms of cross-border shopping, so I am not sure where the relation is.

My basic question is: You represent the marinas in this province, but you serve people. Do you not want those people out on their boats on Sunday afternoon? Is that not the ideal time to be out on a boat rather than out Sunday shopping? I do not quite see why you would come forward and say we should have wide-open Sunday shopping, given the people you serve.

Mr Mackenzie: In the tourism business, which is season-oriented in this province, it is very hard to develop and run facilities that are so strongly oriented to weekends, especially Sunday afternoons. You are trying to gear up just for those four hours. If some of that traffic is spread out over the week, it makes operations much easier and the person who is using the facility gets a better quality of experience. People who come to our facilities on a Wednesday are treated royally because there are so few of them. On Sunday afternoon, you process them, you do not treat them.

Part of the point—maybe I did not make our case strongly enough—is that the marina industry would like to see retail shopping available to tourists seven days a week so that the province of Ontario is more attractive to tourists overall.

The Acting Chair: Mr Paris and Mr Mackenzie, on behalf of the committee, I would like to thank you for taking the time out this afternoon and giving your presentation.

1430

ACCOMMODATIONS/MOTELS ONTARIO

The Acting Chair: I would like to call Accommodations/Motels Ontario. You will be allowed half an hour for your presentation or you can submit a shorter presentation if you like and allow time for questions or comments from each of the caucuses. Please proceed by giving your name for the record.

Mr Hachkowski: My name is John Hachkowski and today I represent Accommodations/Motels Ontario. I also own two businesses within the city; both are related to tourism and also local. One is the Ascot Inn and the other is the Belmont Tavern.

It would seem from gabbing with these gentlemen behind me that tourism is a big factor today and is probably very vital to our industry. In fact, to the majority of us it is our lifeblood.

You will by now have received all the statistics and information reinforcing the importance of tourism. Make no mistake, with the decline in our manufacturing base; the moving of much of our production to the south, across the border, due to free trade; the restructuring of our resource industries—the examples of Kapuskasing today,

also Sault Ste Marie—tourism and the hospitality industry take on a very important role.

When you have such things as major restructuring within the economy, the erosion of the tax base creates shortfalls in revenues. Government programs suffer, educational grants suffer, social programs suffer. Tourism, because of its intense capital investment, cannot just close up and move. It must be supported and reinforced so that it continues to grow.

Shopping is one of the important factors of tourism. In fact, probably for the majority of travellers, it is very important. Whenever we see people coming back from destinations, they always talk about their shopping, what they purchased. Whether we travel to Toronto, New York or Florida, we always manage to do some shopping. To arrive at a destination and have everything closed—and I imagine each one of us has experienced that at some time—creates an uncomfortable feeling within us. Remember, vacation time is limited; it is costly and you do not want to waste any of it.

Shopping has changed. It is no longer going out to get the basics of food or clothing. Today shopping is entertainment. Malls become village squares. Our own local Main Street is described as a quaint cobblestoned shopping area. It is a social gathering place. Tens of thousands of dollars are spent by retailers in design, lighting, merchandising, to attract customers. Today it is an entertainment industry. You go to the store not to buy, in many cases, but to browse or to be entertained.

The concept of a common pause day in Ontario is probably outdated. In our society today, thousands of people work at all hours of the day and night throughout the week, in the resource industries, processing, manufacturing, packaging or whatever. In our own industry, we are open 24 hours a day, seven days a week, 365 days a year. It is the nature of the beast. Therefore, we must provide these products and the experience and service to our patrons when they want them, or we risk losing them; and today we are losing quite a bit.

I do not believe we have cross-border shopping just because we are not open Sundays. I believe it is because of price structuring.

Probably you have heard this before, because some of it is part of my association's message to me. Today governments sponsor all kinds of programs to train and employ youth, to supply suitable employment for displaced workers and to provide entry-level employment opportunities for numerous inexperienced and unskilled persons.

Most if not all of these persons are available to work, want to work and have a right to work whenever and wherever there is an opportunity to do so. Many of these people, and others, are or would be happy to work in retail business establishments on Sundays and holidays for personal, business experience or economic reasons.

The vast majority of workers in Ontario, including all retail business establishment employees, are protected under the Employment Standards Act. It is very costly for employers to hire and train staff in our industry, and most others, and it is in their best economic interest to operate well within the existing labour laws.

The majority of all tourism-related activities include retail shopping taking place on the weekends. Actually

most shopping, about 80%, does take place on the weekends. Also, the Ontario government is involved in weekend work in terms of its major attractions throughout the province, in its little boutiques at different provincial parks. They also work, but they are not governed under the laws we are. About 20% of the gross weekly sales for numerous tourism and hospitality enterprises are amassed on Sundays and holidays, and remember, taxes are produced by these revenues.

I believe there should be one law that governs all of Ontario in terms of this, not individual municipalities, because then you will have sort of balkanization of the province. I am not saying that Sunday shopping is the it and the be-all of everything. What it does is reinforce the essence of service in the tourism structure within the province.

That is all I have to say.

Mr Daigeler: Thank you for coming before us and bringing us the message of the tourism industry. It has been a very forceful one. I used to serve on the standing committee on finance and economic affairs and I think it was about a year and a half ago that the tourism industry first made very strong representations about the future of the industry and that there was a problem. I am glad to see you fight for what I quite agree with you is a very significant element of our economy and all of our future prosperity, so I wish to thank you for making the point, even if the same point is made several times. I think it is of importance for all of us.

You are from North Bay. We heard a different message this morning as to what North Bay wants to be and what kind of lifestyle it wants to have. Under the old Conservative legislation there was the tourism exemption. Now we are going back to that again, the tourism exemption. Were there tourism exemptions here in North Bay? Were there areas designated as tourism exemptions, where people could shop? What was the experience then?

Mr Hachkowski: I do not know of any park that had an actual tourism exemption. At one time, our Lakeshore Drive was zoned under tourism/hospitality zoning and some of the stores on that particular stretch where they had many motels were open. The rest of our main street and our malls were closed on Sundays.

Mr Daigeler: Is this still the case, that these stores are open along the Lakeshore?

Mr Hachkowski: Some of them are. We have a major mall on the Lakeshore and that is closed. The smaller stores, like the tourism-operated stores, the little convenience stores, are open.

Mr Daigeler: In those days, then, was there much of a fuss about this, or did it work, or did other retailers feel they were being put in an unfair situation?

Mr Hachkowski: Not at that time, no. There was none of that feeling at all that I can recall. I think we are dealing with a whole different, shall we say, ball game here. The international competition for the tourist dollar is absolutely immense today. People travel beyond our borders. As a Canadian, I like to go to the United States. There is nothing wrong. Everything drops in half for me in terms of cost. That is a reality. I am not saying that because I have

shopping here on Sunday we are going to have tourism, but as a tourist here I have an option that I did not have before. I can go shopping. If it is raining, what do I do? Sit in my motel room? I mean, it is a day where what am I doing? I can go to a mall, basically maybe for about four to five hours. That is all we are looking at probably, but I can wander around, whether I purchase something or not.

As I say, it is an entertainment business today. It is not a shopping business. Millions of dollars are spent in glorious malls. For what? To sell pants or shoes? You can do that in a regular type of thing. It is to attract people into these places. We are entertaining today. That is what it has come down to, unfortunately, but we are in a global market today. Go anywhere—England, for instance. If you go to England, everybody is open Sundays. Everybody adapts. We all adapt. Humans have a great propensity to adapt to situations. In two years from now you will not even know that you had this problem. That is the way we are. You see, everything costs money today.

1440

Mr Daigeler: I presume that was the same thing when the legislation was struck down. Some people opened, others closed and it just went its normal way. Was that the experience here in North Bay?

Mr Hachkowski: In a way, yes. You sort of lost. We in North Bay, for instance, today have a very sharp decline in tourism. I do not know what you heard this morning. I have no idea. In my particular business, it is a definite yes. If the mall had been open, if that would have increased it, I have no idea. All I know is it has the tendency to reinforce, "Stay here." Look, enjoy the waterfront, but then maybe you want to go shopping Sunday. Maybe the wife wants to go shopping, I go fishing or I enjoy the waterfront, but I have these options.

Mr Poirier: We saw some material this morning. We read some editorials as to why it went down so much. I am sure you are familiar with the editorials you saw in the local Nugget and whatever. Did you agree with that, on the causes as to why it went down so much?

Mr Hachkowski: Sir, I did not have an opportunity to see what was in the paper.

Mr Poirier: What would you think is the main cause? Because this is very dramatic. They said a 20% loss last year, a further 10% loss this year. The mayor is saying he has seen about 10 American licence plates so far this year around the place. What is happening?

Mr Hachkowski: I think what is happening is that people are very fearful of the economy. Look what is happening north of us, in Kapuskasing. Here you have a whole community that is on edge. They do not know what is going to happen. You do not travel on vacation. You make sure you pack away the money you want. Kirkland Lake is in a bad situation. Sault Ste Marie is in the straits. Nobody is flowing.

Interjection.

Mr Hachkowski: In North Bay? Basically it is the economy overall. I think there is very little discretionary money in the system. Our cost of living is very high. Our

taxation is very high. The realty tax to the city on our motel, for instance, went up by about a 46% to 50% increase from 1986 to 1990. That is significant. Every year you go up 5%, 7%, 8%, whatever. That is a very significant increase. I think it is just that people do not have the money to go on vacations. If they do, they are going to go for two or three days to see some specific item and come right back home. There is not that flow that you go on a long tour through Ontario and see all the sights. You do not have that any more. It is a different lifestyle.

What they were calling the yuppies at that time—I guess I am a little older than that—are settled down. They are having families, obligations to families. They are not as free with their time and their money any more. There are other commitments and obligations and responsibilities.

I think everything that can be done to attract and to reinforce what you have got has to be looked at very seriously. Remember, governments always like to get more money because that is where it all comes from. It comes from our generation of wealth—making it, taxed on it—and services. It all comes down to that.

Mr Morrow: Before I start, I would really like to clear something up that Mr Daigeler said to the last presenter. He said this seems to be starting to be a business-against-labour problem here. Well, no it is not, because we had small business in Sudbury and small business in Thunder Bay, plus the mayor this morning, say they were in agreement with this bill, so it is not one side against the other.

Having said that, thank you very much for your brief. It was quite interesting. I guess I missed it, but you said you owned a small business here in Thunder Bay.

Mr Hachkowski: North Bay.

Mr Morrow: North Bay, I am sorry.

Interjection: It's all right. We forgive you.

Mr Morrow: You travel around. You know what it is like. You also talked about the municipal option. Under the amendments to the existing legislation, we are changing the municipal option to tourist exemptions. I just thought I might like you to know that.

I have just a couple of questions. What does it cost you to actually operate on a Sunday? Do you have any idea?

Mr Hachkowski: Just to open the doors in the motel, because we are open Sundays, you are looking at \$500 to \$1,000 a day.

Mr Morrow: What is your cost on a weekly basis?

Mr Hachkowski: Right at the present moment I really do not have the figures for that.

Mr Morrow: The small businesses in Sudbury do not want to open on Sunday. The small businesses here in North Bay really do not want to open on a Sunday. I am just trying to get a fix on what you are trying to tell us. Are you trying to tell us that we should make them open so we can please your industry?

Mr Hachkowski: No. In my tavern today, I have the option of opening on Sunday. I do not, because I do not feel that the business is there. But I have that option. No one legislates me to say that I have to open or I have to close. The economics of the situation govern that. One day

I might have to. I do not know. Personally, in this particular case, I myself am really not crazy about it but one day I might have to. It is the economics. Economics basically rule the roost. When the economics are good, everybody wants to improve everything. But when you take all the money away, then you have to dig in and work, because you need that.

Mr Morrow: Do you really feel that workers in Ontario should have an absolute right to refuse to work on Sunday?

Mr Hachkowski: That is a loaded question. First of all, I have employees in my businesses who have worked for me for 11 years and I have never had any refusal of any sort to work Sundays. Where we have scheduled everything, our back staff who will clean the rooms have every alternate Sunday off.

How would you feel to walk into a hotel and say: "There's your room. It's in a mess, but see, we don't have anybody working here Sunday because everybody wants it off. We'll give you the sheets, as management at the front desk, and you have to make up your room. Here's the brush to clean the toilet."

How would you feel? No, you feel good walking into a room that is fresh and clean. Somebody has to do it. You know, if we all did what we just wanted to do, we would be in an awful fix. We cannot do that. It just does not work that way. Maybe in some areas you can get away with it, but in our area we have to have clean rooms. It is just the nature.

Mr Morrow: What about walking into a restaurant, for instance?

Mr Hachkowski: Well, go in the kitchen. You might get something to eat if the cook is there. You say, "What am I doing here?" We are a service-oriented industry. We have to have people working on Sunday, and the people who work on Sunday do not seem to mind. If they need an extra Sunday off, they just let us know ahead of time and we reorganize the scheduling. My wife and I have come in on Sunday and worked because somebody has gone to a wedding or gone away for the weekend. There is no problem. It is a give-and-take situation. Maybe we get away with it because we are small and we have that flexibility. I do not know.

Mr O'Connor: I want to thank you for coming and making your presentation. I do not know if you were here earlier this morning, when the mayor was speaking. He had mentioned that they do not support the stores being opened on Sunday. That is the way the town feels. He left with a real interesting thought, though. He said he feels that when he attracts tourists to North Bay, he wants those tourists to leave knowing some of the finer points of North Bay—the trails, the experiences, fishing in the lake and some of the fine attributes that North Bay has in itself.

I was just taking a look at the tourism criteria we have laid out, because we do recognize that tourism is a very important part of our economy. Given the criteria we have, do you think there is anywhere in there we should expand on the criteria to try to highlight tourism a little bit more, because right now we are open and we are talking about this. I would really be interested in having a little input, if you have thought about it. We have attractions—the historic

areas, the natural regions, the cultural, ethnic. I am sure you have gone through it all. Is there anything there that is missing that we should be adding to that to bring the tourists, to attract somebody from a foreign country? Because I do not think they come here to go to our malls. If we really want to attract the tourist aspect—

Mr Hachkowski: I agree with you. They do not come here for our malls—especially in North Bay. But it is a reinforcement of what else is around. Remember that. If it is a rainy day, you know, you sit in the hotel. You can always go down and browse. You are entertained, remember. Malls are an entertainment entity. I mean, if you want a quart of milk, you go to the corner store. That is no problem.

1450

Mr Poirier: You cannot go to your tavern on Sunday.

Mr Hachkowski: No, not mine. Maybe one day.

This past weekend I spent time in Niagara-on-the-Lake and I looked around. The stores were open Sunday, yes, and people like that, spending money. There were a lot of Americans. True, the town's location gives it access to a massive density of population; but here was a thing, I think: government-sponsored theatres. They put up the theatres and they have created a beautiful environment of plays and whatever, and it attracts. These are the things that have to be reinforced.

I look at North Bay, for instance, and tourism, and our arts centre which could be the nucleus of something in that regard, expanding on the plays and using the school auditoriums which are tax-oriented to create satellite theatres. Maybe it will take 10 years, but in 10 years it will be viable. Maybe Tennessee Williams, maybe Chekhov, all those other plays that would not be competing with Stratford and Niagara-on-the-Lake, something totally different. Maybe in northern Ontario we could do that to attract people to this community.

Mr O'Connor: So there is a need to market our tourist attractions, maybe.

Mr Hachkowski: That is true, yes. When you go out travelling today I think you are going for an experience, not just to travel and to see what you can pick up here and there; you are going for a specific thing. I went to Niagara-on-the-Lake because of the plays. I go to Stratford because of the plays. I go to Toronto because of the attractions, the restaurants and the shopping. Men really do not shop. It is ladies who shop.

Mr O'Connor: With the tourist criteria, then, we should not be excluding areas such as that.

Mr Hachkowski: How do you mean?

Mr O'Connor: If there is no problem there, with the tourist criteria.

Mr Hachkowski: I think every community would probably argue that they fit the criteria for tourism when you start opening it up. I do not think they are going to say, "We're not in that area, so we're not going to fight for it." I think it has to be a blanket thing across the province.

It is very difficult to handle it piecemeal: "You're okay; I'm not okay. You're okay; I'm not okay." You cannot do

that. All of a sudden you open up a whole can of worms that really does not help anybody.

Mr O'Connor: One of the finest attractions in North Bay, of course, is my grandmother whom I come to visit when I come to North Bay.

Mr Hachkowski: See, there you are.

Mr Poirier: And you go shopping with her.

The Acting Chair: Mr Hachkowski, on behalf of this committee, I would like to thank you for taking the time out this afternoon for coming in and giving your presentation.

HUNTSVILLE/LAKE OF BAYS
CHAMBER OF COMMERCE

MUSKOKA TOURISM MARKETING AGENCY
TRADITIONS OF MUSKOKA LTD

The Acting Chair: I would like now to call forward Huntsville/Lake of Bays Chamber of Commerce, Muskoka Tourism Marketing Agency and Traditions of Muskoka. Thank you for coming this afternoon. I will allow you adequate time for your presentation. Then I will open it up for questions and comments from each of the caucuses afterwards. Could you please identify yourself for the record and then proceed.

Mr Bell: My name is Peter Bell. I am the general manager of the Huntsville/Lake of Bays Chamber of Commerce. I would like to apologize for being late. We were scheduled for 2 o'clock and I certainly appreciate the committee seeing us at this time and allowing us to make this presentation. I have a written brief and a number of copies that I will hand out. I am going to follow it a bit and would hope that you are going to ask questions.

The Huntsville/Lake of Bays Chamber of Commerce represents over 300 businesses in the municipality of Huntsville and the township of Lake of Bays, both of which are located in the district of Muskoka. Our membership includes both small and large businesses, many of which are retailers.

Traditionally, Muskoka has always been one of Ontario's premier vacation tourist destinations. In fact, Muskoka is quickly becoming a world-class tourist destination. A part of all world-class tourist destinations is shops that cater to tourists. We need to create the shopping experience that is part of being on a holiday. This means providing a variety and service that are world class, and this includes being open seven days a week.

The government already recognizes the nature of the hospitality industry through its employment exemptions. In Muskoka, 75% of our economy is tourism-based. As such, most businesses are in the hospitality industry. That includes the retailers. In building a world-class tourism destination, the businesses of Huntsville/Lake of Bays only ask the government for its support, not for more legislation. We support freedom of choice.

There are a number of points I would like to make today. Based on the tourism criteria, subsection 4(3) of the act requests that chambers of commerce submit a letter indicating that the organization supports the opening of retail business establishments. The Huntsville/Lake of

Bays Chamber of Commerce was never consulted as to our willingness or ability to participate in this manner.

The Huntsville/Lake of Bays Chamber of Commerce is not a regulatory body, nor do we wish to be perceived as such. We could be open to legal liability from retailers whose applications do not receive support. On behalf of the chamber of commerce in Huntsville, I strongly oppose the delegation of authority and ask that chambers of commerce be deleted from paragraph 3(1)4 of the tourism criteria regulations.

Holiday shopping: Prior to this legislation being debated and becoming law, on July 15, 1991, the district of Muskoka passed a bylaw, 91-66, that permits retail business establishments to be open on holidays between the beginning of the Victoria Day weekend and the end of the Thanksgiving day weekend. This was done because there were a number of requests from local business retailers who found it was necessary and it was time to address this in Muskoka. The demand was there.

The members of the Huntsville/Lake of Bays Chamber of Commerce support this bylaw. To prove that point, between June 18 and 22, 1991, the chamber of commerce surveyed 163 of its members. They were asked the following question:

Do you support the proposal to allow Sunday shopping from the Victoria Day weekend to the end of the Thanksgiving day weekend? The result was 117 yes and 46 no, which is 71% in favour.

They were also asked, do you support the proposal to allow stores to be open on Boxing Day? The result was 91 yes, 72 no, which is 56% in favour. Based on this survey, the Huntsville/Lake of Bays Chamber of Commerce supported the bylaw.

The results of this survey indicate the following: (1) Since the Huntsville/Lake of Bays Chamber of Commerce is located in one of Ontario's premier tourist markets, members wanted to be able to service the tourists who expect to be able to shop on Sunday; (2) to provide freedom of choice for consumers, retailers, workers and families; (3) since we are a tourist-based economy, this legislation provides an exemption for the hospitality sector. Why should we discriminate against different industry categories, such as retailers?

It is clear that although opinions are diverse, the Huntsville/Lake of Bays Chamber of Commerce supports the freedom of choice relative to business holiday openings.

Mr Miglin: My name is Sven Miglin. I am the vice-president of the Huntsville/Lake of Bays Chamber of Commerce. I am also the president of a company called Alpine Adventures, which has operated canoeing, restaurants and tourist establishments inside Algonquin Provincial Park for the last 15 years. I am also the president of a company called Traditions of Muskoka Ltd, and it is in that role that I speak to you today.

Traditions of Muskoka Ltd operates two retail stores in Huntsville. Flotron's Huntsville Trading Co, which is about 7,000 square feet, employs about 25 people and is located on the main street of Huntsville. We have a second store called Traditions of Muskoka. It is about 3,500 square feet, employs about 12 people and is located at

Blackburn's Landing in the centre of Huntsville. We retail ladies' and men's clothing and giftware. Flotron's also has a bath shop, housewares, a wool shop, etc.

Traditions of Muskoka believes that all retail businesses should have the right to determine which days of the week they can be open. It is unfair and discriminatory to require some retail-service businesses to close on Sundays, and clearly it is inappropriate to require all retail-service businesses to be closed on Sundays.

A retail business must have freedom of choice when it comes to determining the appropriateness of being open on a Sunday. It will make this determination by evaluating economic factors. If it is not profitable or worth while for me to open, then I will not. I do not believe I need legislation to advise me on whether or not the economics warrant being open or not being open.

1500

A business will consult its customers to determine if they wish or require it to be open on a Sunday. I like to believe I communicate with my customers to find out what they want and need, that they will vote with their feet and their pocketbooks on whether I should be open on a Sunday; that would be a very important form of input to me. Any successful business must. It will work with its staff to determine the feasibility of being open.

In our particular situation, in a tourist area, being open on certain Sundays of the year can be quite important. Given the current economic factors we can ill afford to forfeit this opportunity. A strong retail-service sector is important to a community such as ours. In Huntsville we tend to have a very, very busy summer and Christmas is not too bad, but the rest of the time is pretty quiet.

There is opportunity in the summer, we have a lot of visitors, and not to be able to have the opportunity to capitalize on that has a very real impact on the economic viability of a business such as ours, the taxes we provide and the people who work for us.

The employment opportunities created by being open on a Sunday are significant, especially to the student segment of our community. There are also other segments of our population which would welcome the additional employment opportunities. Any successful business must and would be sensitive to the concerns of its employees and would strive to accommodate them, either individually or collectively.

Personally, I think the time for the adversarial relationship that is fostered by many between an employer and his employees is long gone. I think that any good employer is very sensitive and aware of what is good for his employees. We work as partners together in any business venture. It is as much their business as it is mine. As we are sensitive to the concerns and issues they have, they are sensitive and concerned about the issues that we have. I think that, in most cases, successful businesses working together with employees can resolve a lot of the issues that surround something like Sunday openings.

In today's environment the retail industry is under tremendous pressure. Cross-border shopping and changing buying patterns are just two examples. We are often told that the problem is not just a tax or cost issue. We are told

we must be more competitive and aggressive and that we must better serve our customers. Leaving the tax issue aside, I do not think I have enough time to tell you exactly how I feel about that. I agree that there is substantial room for improvement.

Clearly, our customers want the opportunity to shop on Sundays. Providing that opportunity is a more competitive and aggressive stance that better serves our customers. Do not legislate against such an opportunity.

On a larger scale, the tourism industry within our community and in fact within the province is also under tremendous pressure. Again, we must be more competitive and provide these visitors, our customers, with better service. They expect to be able to have a wide range of activities throughout their holidays, including Sundays. This range of activities includes shopping. Do not legislate against providing this activity. Shopping is a recreational activity. There is no doubt in my mind about that. In that sense, it is no different than bowling or going out for dinner.

It is indefensible to restrict certain retail-service businesses from being open on Sundays and then allow a large number of other retail-service businesses to be open. Why should a restaurant or a bowling alley be open on a Sunday and not a retail store? Why should workers in one industry be protected while workers in the other industry, such as a restaurant or a bowling alley, not be protected? They have families, they have friends they want to go and visit as well. There is a great inconsistency in the policies and the arguments as I see them put forth.

As with any major issue, there are arguments for and against any position. No position can satisfy all concerns. However, the position must be consistent and fair to all. It must not discriminate against or place undue restrictions on any part of the population. It must, as much as possible, respect the right of an individual or a business to have freedom of choice. Any legislation that is active on my behalf must adhere to these basic principles.

I thank you. I have a couple of copies of my presentation—three, I was trying to save paper. Do you want to make more copies? I am not always sure where they end up if I make 20 copies.

Ms Dale: Thank you. I feel like the tail-end of the Three Mouseketeers. My name is Dale Peacock and I thank you for the opportunity of presenting to this committee today.

I am here wearing a number of hats in a number of roles: as chairman of the board of the Muskoka Tourism Marketing Agency, and as VP for tourism for the Huntsville/Lake of Bays Chamber of Commerce; I am employed as director of marketing and assistant general manager of Grandview Inn in Huntsville; and I serve on a tourism advisory group to Georgian College.

I suppose I would start by stating the obvious, and that is that tourism is a proven vital component to the economic success of the district of Muskoka. We have a history that goes back to the mid-1800s, which would further demonstrate that.

Based on certain research done by the Muskoka Tourism Marketing Agency jointly with the Georgian College tourism management group, direct spending by visitors to Muskoka in 1990 was \$180 million, representing a very

significant total of revenue from all sources. The plan to legislate a common pause day for Ontario, in my view, would be a severe blow to all tourism areas. I feel it is an outdated scenario. Obviously everyone in my business, for instance, works; they do not work seven days a week but we are open seven days a week, as the last gentleman said, 365 days a year. For the past 10 years, I have personally worked on Christmas Day as a message to others in my business who are called upon to do so.

Muskoka, with 175 resorts, hotels and motels, accounts for 45% of all the roofed accommodation in non-urban Ontario. We also support an additional 50 campgrounds. I think this certainly qualifies us as a significant tourism destination. Eighty per cent of the Muskoka tourism—I think Peter used the number of 75%, so we will not quibble over 5%, but it is a very substantial percentage. A large percentage of all the Muskoka economy is tourism-based and this is per reports done by the Ministry of Tourism and Recreation from a number of other areas too that certainly, at the end of my presentation, I will be happy to detail.

The Longwoods Research Group, in a landmark \$100-million study for the Ministry of Tourism and Recreation 10 years ago, examined the American perspective on Canada. They broke it down to province by province, covering Ontario very well as well. They examined that American perspective on Ontario, I will say at this point, as a vacation destination. Shopping was listed as one of the top five preferred activities of visitors to all of Canada. My own area of resorting figured 10th and my assumption prior to that time would have been that it would have been much higher. A similar study revisited those findings in 1990 and found that they still hold true.

With a major shift in market trends to short getaways of one to three days, the majority of social recreational visitors are coming to our area on weekends, necessitating the availability of one of their favoured pursuits—that has been identified in a number of studies—that being shopping, on a seven-day-a-week basis. This change in trends in the industry has exerted a tremendous pressure on the hospitality industry. Often in recessionary times an industry such as ours is one of the first to be affected and certainly one of the last to recover. We are buffeted on all sides by competition offering a host of amenities. An additional amenity that is part of the entire vacationing experience, in my view, is shopping extrapolated to Sunday shopping.

Of an anecdotal nature purely, I could mention that in the property that employs me we keep a sort of trivia tally throughout the summer months. One of the interesting facts is that while 5% of our guests asks us where a church is on Sunday, 75% of them ask us where they can go shopping or to buy something or pick something up to take home.

I am not making any kind of judgement on that, but I do not think Sunday shopping as an issue is contributing to the breakdown of the family. This is happening and attendance at church is dropping. We know all that. None the less, I offer it as an anecdotal suggestion only. We operate a couple of boat cruises and two shuttle bus services into the nearest town each day to transport those interested in shopping excursions, and these include Sundays which

often have the best attendance for those looking for something to do.

In addition, Huntsville is the nearest shopping location for 600,000 visitors to Algonquin Provincial Park, one of the province's major tourist attractions. Eighty per cent of those visitors in shoulder seasons come for a weekend and in shoulder seasons that is when we need the majority of push. We all do reasonably well, certainly, on weekends and in high season. If we cannot make it then, we are probably out of business. But particularly when the weather is inclement, shopping takes on an added importance to the success of, and therefore the chance of a return visitor stay. I believe this in a very small part supports the principle of a tourist area exemption.

Looking at the criteria supporting the exemption, I would say that for the most part I support those items that are listed. I would add that it certainly must be broad enough that all tourism areas are correctly designated and thus protected, if you will. I would say that I do for the most part support the guidelines as set out under the heading "Tourism Criteria" on regulations made under the Retail Business Holidays Act. The only thing I might add to that issue would be the question of seasonal visitors, if there were a danger they then would be considered sort of non-tourists because they were not coming between the Victoria Day weekend and Labour Day, that scenario. I would certainly, in essence support a year-round designation to make sure that is clearly made part of the tourism criteria.

I thank you and at this point we are available for questions.

1510

Mr Sorbara: It looks like the three of you, representing another of Ontario's great tourist areas, are the final presenters for this week of Sunday shopping hearings. I just want to be clear about which model you prefer. I take it that you are *ad idem*, that you all agree on which model you prefer. I will try to describe a spectrum of options for Sunday shopping.

On the far right or left or whatever it is from your vantage point is the option that has no regulation at all, not even the regulation that allows a municipality currently to regulate store hours on any day of the week.

The next option is allowing municipalities to regulate Sunday in the very same way they now have authority to regulate other days of the week.

The middle option is for stores to be closed, but to allow a broad municipal option or the municipal option. That is what we have right now under the Liberal bill: stores closed but municipalities have a broad discretion, a broad freedom, to determine what stores will and will not stay open and can provide for unlimited opening.

The next option over is all the stores shall be closed, but there is a narrow option to open if you come within the tourist criteria. That is the NDP option. That is the bill we are considering now. You do not get to open unless you can fulfil the criteria relating to the maintenance or promotion of tourism.

The final option is where all the stores are closed and there is an extremely limited ability to open. That is the option that is currently being supported by the trade union movement and a number of fundamentalist religions that have come before us, including the Christian Lord's Day Alliance.

Which of those do you prefer? This is a skill-testing question. If you get the 10 points, you can go on to the next series.

Mr Miglin: Which door do I pick? I think that is a tough question, for me to speak on behalf of everybody, because even within our group and within the people in our community and within some of the people we represent or we just know, there is obviously a divergence of opinions on that matter.

I feel very comfortable in saying that the vast majority of people who are involved in the businesses—that means employees as well; I do not mean just employers—in our community support being open during the tourist season. I think that was shown by our survey. That was shown by the bylaw that was passed, I believe unanimously, by the district council. I was there. I saw the presentations being made, and they were mostly in favour of the recognition that we are a tourist area and that we should at least be open then. It is absolutely absurd to believe we should be closed as a tourist area.

Mr Sorbara: I would like to hear your answer on this as well, because you talked about freedom of choice: Another way of putting the question is, who do you want to tell you whether or not you can open on Sunday, and how much power do you want to give to that level of government or that individual?

Mr Miglin: I guess individually speaking, purely for myself, I would prefer there to see myself having the ability to make that decision. I would decide that it is a tourist area, that this is the time when the tourists are there and that it warrants being open. I am not sure that is shared by everybody in my community.

Mr Sorbara: I want to congratulate you on that view, not because I support it—we are still in the midst of hearings. The fact is that in your particular situation Traditions of Muskoka has a wonderful competitive advantage under the bill these guys are proposing. You are under 7,500 square feet, so you are going to get the option, the advantage of a tourist exemption, but your competitor who is over 7,500 square feet is probably going to have one hell of a time opening. To say that notwithstanding you would have a competitive advantage, you want freedom of choice is, I think, rather laudable.

Ms Peacock: I do not need to really expand upon that. I do not believe it is something that should be legislated. I believe we should choose that option ourselves.

Mr Bell: As well, based on our survey at the chamber of commerce, I feel in talking to our members that most of them supported the choice. They did not understand why we had to deal with legislation every time it came to making a choice based on certain things. Under the guidelines that exist, which are the Liberal guidelines that the bylaw was passed under, obviously there were submissions made

to the municipalities suggesting we should have Sunday shopping. They went through the 30-day waiting period. They put out the notice. We, as a chamber of commerce, went to our members and said, "What do you feel?" They felt it should be choice. I think that is number one if we have an option.

Certainly in Muskoka we are lucky that we come under two thirds of what has been proposed that you gave us as options, but once again, position A is freedom of choice.

Ms Peacock: I would think it may well be that I came with not quite enough information. I did not make that point very strongly because my understanding was that this particular bill has had two readings, that it is virtually a fait accompli. That it is more a matter of sort of protecting your own little area and making certain you make your point for our little corner of the world to be considered under the tourism criteria. If I was speaking for all of Ontario, which I am not doing, my answer might be different, and certainly my view on personal choice stands.

Mr Sorbara: As a practical matter, you are probably right that there is precious little the government is going to allow to be changed in this bill as a result of these hearings, but there always is hope. By the way, opposition is about hope. There is always hope.

Ms Peacock: Well, I suppose this government knows about that.

Mr Sorbara: Yes, they sure do. But you know what? They are going to find out a hell of a lot more about it in the years to come.

In any event, we are hopeful the government will see that the world has changed pretty dramatically over the past while and that the sense that people have matured and can make their own choices is really the reality of today and the emerging reality of tomorrow, but we will wait and see on that.

I have a question now in respect of the relationship of employers and workers. One of the most disturbing things I have heard during these public hearings is the view of the United Food and Commercial Workers International Union and the trade union representatives through the district labour councils. Their view is that there is widespread exploitation of retail workers and retaliatory measures taken out on workers who prefer not to work on Sunday. That really does disturb me, because if that is the case, I think we have a serious problem on our hands.

On the other hand, when we have heard from employers, the view they have expressed is that they try in every instance to accommodate their employees, their workers, and in most cases would not think twice about acceding to a request from an employee that he not have to work on Sunday. Many employers told us that they have a good, solid base of workers who are anxious to work on Sunday and do not have problems filling the hours.

I do not expect you to argue the case of the trade union movement or the United Food and Commercial Workers.

Ms Peacock: That is highly unlikely.

Mr Sorbara: They have an important role to play in this. I just want to know about your experience as employers and employer representatives, through the chamber.

Ms Peacock: My own experience, remembering that I am a member of the hospitality industry, is that we are open, as I have said, seven days a week, 365 days a year. Sunday is one of those 365 days. I would probably say that in our industry there is such an acknowledgement that the possibility of working on Sunday or Christmas Day or New Year's Day or your mother's birthday is very great that you may feel compelled to steer away from that industry if you have an absolute aversion to any of the above.

I can only speak on behalf of my own property and that is what I am doing. We have a couple of people on staff who are evangelical Christians. They have been able to work it out with their department head that they get Sunday off, or at least if they do work Sundays, they work one Sunday a month as opposed to all Sundays a month or whatever. I think we are very sensitive to the needs of our employees, as anyone in the service sector must be if you are going to hold on to good employees and consequently that really does come down to a bottom line, a business decision for you. We are not that nice necessarily; it makes good sense to do that kind of thing and we do it. Sven can speak for himself. Speak for yourself, Sven.

1520

Mr Sorbara: I want a follow-up question on that. Are those evangelical Christians who are allowed not to have to participate in Sunday work denied promotions, given the less desirable hours, held back in job advancement?

Ms Peacock: No, absolutely not, and for the most part I must say I really—I am one of two senior managers there. We run the business on the day-to-day basis. Most often it is not even a matter I or my boss, my co-worker, has to deal with. Most often people are able to work it out within their own departmental level on a very co-operative basis. We are grown-up people here.

Mr Sorbara: By the way, the bill does not provide workers in the hospitality industry the absolute right to refuse work.

Ms Peacock: I understand that.

Mr Sorbara: Your workplace is not affected by the present bill. In Traditions of Muskoka—

Mr Miglin: Again, I cannot speak for everybody else, I can only tell you how things have gone with myself. One of the two stores I operate, Flotron's, has been around for 22 years. I bought it a year and a half ago. A lot of long-time staff had been working there eight, 10, 12 years. It had never been open on Sundays because the previous owners did not believe in being—for whatever reason they never did open it on Sundays.

When the municipality passed a bylaw on July 15 or whatever I was faced with opening Sundays. I had opened a few Sundays in December. I went to each one of the staff and I explained why I felt it was necessary to be open Sunday, the limitations I thought were reasonable—we would not open in September because it was not worth it and that would mean fewer Sundays. We would not open Boxing Day because I had heard, quite understandably, that they were really upset about Boxing Day.

I said, "I can live without that," but the Sundays in the summer I need. It had been a pretty brutal winter in retail,

make no illusions about that. We were actually shut down with a fire beside us for four and a half weeks, which just compounded things, so I said, "We can use these Sundays." I explained to people why I wanted it and said: "If somebody wanted to work more Sundays, I'd be happy to accommodate you. You want more money, more hours? Great. If you want an additional day off in lieu let me know. If you don't, if you just want to work that extra Sunday that week for the five hours, let me know and if you don't want to work Sundays, let me know."

Everybody filled out the sheet and I made a schedule accordingly. Those who wanted to work more Sundays worked more Sundays; those who said they would do the bare minimum just to keep us open did. One individual said she would not work Sundays and she did not work any Sundays. I did not schedule her.

Ms Peacock: Did you fire her, Sven?

Mr Miglin: No, I stuck hot needles under her fingernails.

That is how I attempted to resolve the situation with the staff and it appears to be working quite well. I have no illusions that they would have been happy not to have been working Sundays, but I think many of them said they understood why. They all wanted to have jobs last winter. In fact, I was proud that this winter we did not lay off one individual. Out of all my staff I did not lay off one between the two stores. It was very tempting to do that. When the fire shut us down I got the cleaning guy to hire my staff for two or three weeks because he needed people and they needed a paycheque. So I think there are ways employers and employees work together to resolve the issue.

Ms Peacock: Without legislation.

Mr Miglin: Yes. It is not to pretend there are not employees who exploit it and there are not employees who are unfair to their companies, but I think the great opportunity exists to work together.

Mr Sorbara: Is the fact that you are able to utilize a Sunday market part of the reason why you did not have to lay off any employees this year?

Mr Miglin: In the broadest sense, if you do well enough during the summer you can keep them around in the winter. I think you have a moral commitment to keep as many of them employed as you can in the winter. They are entitled to a paycheque as much as possible. I came up with a number of schemes. At that point, no, I did not know about Sundays, truthfully, because it was last winter. I did not know what was going to happen with Sundays.

Mr Sorbara: I do not expect you to speak on behalf of other employers, but do you think your approach to your relationship with your workers is atypical, out of sync with what the standard in retailing is?

Mr Miglin: I do not know. I think most successful companies have got to work in partnership and co-operation with their employees. That does not mean they all do; that does not mean they cannot influence control for power in certain circumstances. Some probably do. I have no way of really knowing to what extent, but if you are successful in any business your employers have to be partners.

Mr Sorbara: I do not have any further questions.

Mr Lessard: Thank you very much for your presentation. I just want to make a couple of points at the outset before I ask you some questions. It is true that your chamber of commerce should have been consulted prior to this provision going into the regulations. That may have been a mistake, but that is one of the reasons we are here on this committee going through the province right now. It is a draft regulation and we want to hear what people have to say about it.

I know that is not the role you feel you want to be involved in, but I get the sense that you feel there is a role for the chamber to play because it seems as though you got involved in Huntsville in trying to encourage council to pass this bylaw and you have surveyed your members. But do you feel there is any other role the chamber might play with respect to this issue?

Mr Miglin: Certainly a proactive role. Coming to this meeting is a role a chamber of commerce can certainly play. I do not think our role is necessarily a letter indicating that, yes, tourism should be part of the district of Muskoka. Legislation in itself is put forth by a government and it is our position to either influence before or afterwards, either in a proactive or a reactive manner. Our chamber of commerce certainly prefers the proactive approach we are taking in this stance.

Mr Lessard: Does the bylaw passed in Muskoka have any restrictions in it with respect to hours of opening or the types of businesses that might open?

Mr Miglin: No, the only restrictions are in the time frame, Victoria Day weekend to Thanksgiving and including Boxing Day, but other than that there are no restrictions whatsoever. Just to go over that bylaw, there was not a letter sent by the chamber of commerce requesting that. It was a request by a number of retailers in our community to district. District put a public notice in the newspaper and made announcements of a 30-day public notice period and had a public meeting. The public meeting influenced their decision; their decision was a unanimous one. So that is how that process went. I think that is the role of a governing body such as yourselves.

Mr Lessard: Did you attend the meeting yourself?

Mr Miglin: I certainly did.

Mr Lessard: Could you tell me about some of the submissions? You have mentioned economic considerations and customers and the opportunity for employment, but we are concerned as well with the quality of life of the employees and the people who live in the municipality. Were those sorts of submissions taken into account and made?

Mr Miglin: I was certainly there; there were 12 submissions in support of Sunday shopping and six against. I think that is a very strong vote. In fact, one of the submissions was made by an employee of Economy Fair, Herb Title, and I am sure Herb Title probably has sat in front of this committee at some point in time or will: Herbie's Drug Mart or something like that. Her comments were that as a student the Sunday opening allowed her extra hours and extra income for the upcoming season. In fact, jobs were so slim this year for students, that was an opportunity she just relished. All of a sudden she could get more hours in.

There were submissions made in the negative sense that they did not agree with it. Those were usually done by the owner-operated businesses, that the common pause day allowed them that one day of holiday. But I think we go back not to legislation but choice once again, and base it on choice. The municipal bylaw does not require all businesses to be open. It allows businesses the choice.

Mr Lessard: You must represent those small owner-operators as well—

Mr Miglin: I did.

Mr Lessard: —in the chamber and you must know about their concerns, that if they do make that choice not to open on Sunday it may affect the wellbeing of their business. Do you not think that is a legitimate concern?

Mr Miglin: What do you think is a more legitimate concern, one affecting a majority of employees and employers or one affecting the ones who base their decision on, "I don't want to be open so I have to force everybody else not to be open"? What stand would you take?

Mr Lessard: I am listening to what people propose as how we can balance those considerations. That is what we are interested in hearing. But we want to make sure people do not feel that compulsion to open or close for ever. If they have to open, and that is something they do not want to do, that is a consideration as well.

1530

Mr Bell: You like the idea of choice as well?

Mr Lessard: Do you not feel owners would feel compelled to open if larger stores opened?

Ms Peacock: A survey was sent out by the Huntsville/Lake of Bays Chamber of Commerce to the membership. That is what we are speaking on behalf of, and the majority of the membership is made up of small business owners. I am not sure, really, what the percentage is of large versus small business, but it is very small business, many of them owner-operated businesses. The tide would have been turned, I have been thinking, in response to the survey had that been a unanimous feeling, even on behalf of that one segment.

Mr Bell: Yes, 75% of our membership is made up of owner-operated businesses, so I think you could extrapolate that out of the numbers we came up with. I certainly could break down the 163 that actually responded to the survey to how many are owner-operated and how many are big businesses for you. I would suggest it was in support.

Your question has not been answered yet, would it affect their business? I think if it was based on economics, once again we are coming down to a choice, that if there is money to be made in a certain period of time in our community, which there is during a short period of time, they would make the decision that yes. I do not think it is a question of shopping in one store and building a clientele and not servicing it. It is based more on whether there is money to be earned and when it is to be earned.

Mr Lessard: There is also the quality of life issue that they have to consider. If they are working six days a week, do they sacrifice that free time and work the seventh day?

Ms Peacock: We have a very narrow window of opportunity in Muskoka in some ways. Certainly we operate year-round—the majority of our businesses do—but none the less it is about a four-month period that virtually carries the other eight, at least to a certain degree.

I think back 25 years ago when I was growing up in Huntsville and we had—it is a choice. I think Peter knows what I am going to say. We had retailers then who closed Wednesday because they felt like it, and some closed Monday because they felt like it. That is fine. Others opened Friday night, but some did not. It was like something out of a Marx Brothers movie to go shopping. It is like a crap shoot: Who is going to be open and who is not?

What has happened over the last 25 years in Muskoka has been a real degree of sophistication, probably born of dealing with a sophisticated market. Muskoka is one of the premier—I hate to use this word—sort of upscale tourism destinations. I think what has happened—and I see this again from talking to hundreds of people, I suppose, over the last few years in my numerous roles—people, whether owner-operated businesses or not, are very much coming to grips with the fact that if you are in business, you are serious about being in business, and if you are serious about the business of making a success of your business, there are certain issues that must be faced.

We would all, I am sure, in many ways love to be off every Saturday and Sunday. That would be great, but that is not the world we live in. We live in a very competitive world and particularly, as I said, buffeted from all sides with competition, and I think even those owner-operators have simply acknowledged that. They feel that the quality of life is improved by the success of their business, as opposed to being negatively impacted by the addition of another workday.

Mr Fletcher: Thank you for your presentation. I have two things to bring up and the first one is the Traditions of Muskoka. What is the square footage of that?

Mr Miglin: About 3,500.

Mr Fletcher: I am interested in bylaw 91-66, which sounds interesting. You are open from the Victoria Day weekend, which is in May, until Thanksgiving, which is in October, on holidays and Sundays, and then the other times after that, except for Boxing Day, you do not open on Sundays. Is that true?

Mr Bell: On Boxing Day we are not open. Sven has made a choice not to.

Mr Fletcher: Right. The bylaw says you can open on Boxing Day, but other than that you will not open on any holidays any other time of the year.

Mr Miglin: According to what the bylaw allows us, yes.

Mr Fletcher: What if I were a business person, I moved to your area and I wanted to open every Sunday of the year? The bylaw does not permit me to do that. I do not have that choice.

Mr Miglin: It does not.

Ms Peacock: I think they should have that choice. We have some classic examples of winter-oriented business—Schreiner's, B.M. Sports. They are very aggressive, very

hard-working, very competitive. They obviously would want to be open Sundays in winter, and I support their desire to do so.

Mr Fletcher: But the bylaw says that I can only open at a certain time.

Mr Miglin: First of all, the three of us did not draft the bylaw. That was obviously how it was drafted, and I presume that the powers that be, the municipality, can act if somebody chooses to be open outside of that. It is by no means a perfect solution, but it seemed to be a solution that the local politicians decided upon. I am not sure I grasp your question. It is obvious if somebody came there and wanted to open in November, they could not legally.

Mr Fletcher: Right. You have drafted legislation saying I lose my freedom of choice, your municipality, that 56% of your people are in favour of. You have drafted legislation telling me I do not have the choice.

Mr Bell: I do not think we have drafted legislation. A proposal was made by district council. We reacted to that by serving our members based on that proposal, and made that presentation based on that. To correct you, it is not 56%; it is 71% in favour of it.

I think what you are getting at is, we would prefer to see choice, but dealing with legislation is one of the problems that we have. We have to deal within guidelines and the framework of what we are given. If we had open Sunday shopping and choice, you would probably find that a number of retailers would still be open between Victoria Day and Thanksgiving because that is our prime tourist time and that is what the traffic really requires. It is an economics question.

Mr Fletcher: Let me try and get to the point.

Mr Miglin: The answer to the question the way I think you put it is that survey was not one that says that the businesses wanted to be closed for the rest of the year. I think it is inappropriate to read into that that the 71% said, "All we support are being open on Sundays between Victoria Day and Thanksgiving, and we support being closed the rest of the time."

Mr Fletcher: No, what I am reading—

Mr Miglin: In front of them was a proposal saying that this is a bare minimum.

Ms Peacock: It was the lesser of two evils, so to speak.

Mr Miglin: Do you support being open then or do you support being closed in that period of time? It did not address the rest of the Sundays and cannot be extrapolated to reflect their opinion on that.

Mr Fletcher: All I am saying is that you supported that piece of legislation, whether it is municipal, provincial, federal, and your members did support: "Do you support the proposal to allow Sunday shopping from Victoria Day weekend to the end of Thanksgiving weekend?" and 71% are in favour, "Yes, we support this." What I am saying is, what your council has done is take away the thing you relish most, and that is choice, and you supported that. Yet you are here today—

Mr Sorbara: May I rise on a point of order, Mr Chair?

The Acting Chair: No, come on, Greg. You had your time.

Mr Sorbara: My friend Mr Fletcher is badgering these witnesses. They have made it clear over and over again that they described the bylaw under which they are operating it. They did not claim authorship of the bylaw. They do not claim responsibility for the bylaw. They have made their position clear, and Mr Fletcher is trying to put words in their mouth, suggesting that this is their preference when they have made the point that is not the case.

The Acting Chair: I am sure you are quite correct.

Mr Fletcher: Am I badgering? I apologize if I am badgering.

Mr Miglin: I have had worse.

Mr Fletcher: I thought so.

Ms Peacock: He has had worse from me.

Mr Miglin: I think that we have answered questions to say that we are practical people. There was a bylaw in front of us. We were not going to get anything but that bylaw. We had just come through a tough winter. We all knew that legislation was in front of the Ontario government to deal with the issue in the fall, so let's pass that, let's get the summer out of the way, and we will take it from there, as opposed to making a firm stand in principle saying, "You give me every Sunday or you give me none." We were not prepared to do that, rightly or wrongly.

Mr Fletcher: What happens to your bylaw if this piece of legislation that we are proposing goes through and you put in as a tourist area and you are accepted and you can have wide-open Sunday shopping? That means this bylaw is gone. Is that right? I mean year-round Sunday and holiday shopping?

Mr Miglin: You are the politician. You tell me. Is that what happens?

Mr Fletcher: I suppose the provincial legislation would override the municipal legislation.

Mr Miglin: It was passed after July 4, therefore it is killed right away.

Mr Fletcher: Right, after July 4.

Mr Miglin: You tell me what would happen then. Would the bylaw become invalid?

Mr Fletcher: Yes.

Mr Miglin: I presume it probably would be. That is our understanding.

The Acting Chair: Is that correct?

Mr Ceysens: I would not take the opportunity at this point to give a legal opinion. I would want to look at it very carefully. I will not give the committee a seat-of-the-pants opinion on that sort of thing.

Mr Sorbara: You will leave that to the politicians.

Mr Fletcher: Oh, yes. Look what we left the year before.

One more thing: If this piece of legislation that we are proposing goes through as is—but I do not think it will go through as is, I think there will be a few amendments to it—are you going to apply for the tourist designation?

Ms Peacock: Oh, absolutely.

Mr Miglin: I would support my community applying for the tourism designation.

Mr Morrow: I will be very brief, because I really do not have a question at the time to ask you. I just want to let you know that we are listening. We are trying to draft some guidelines that we feel will be good for everybody in Ontario. I want to thank you for coming. You have done a fine job.

The Acting Chair: Mr Bell, Mr Miglin and Ms Peacock, on behalf of the committee I would like to thank you for taking the time out this afternoon and giving your presentation.

Ms Peacock: Our pleasure.

The Acting Chair: I would like to thank the city of North Bay for hosting the committee today. Personally, I would like to thank the committee for working with me this week; it has been very enjoyable. I will be handing the Chair back to the chair next week.

Seeing no other business in front of the committee, I would like to adjourn until 9 am on Monday, August 12, at the Delta Inn in Ottawa.

The committee adjourned at 1542.

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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

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Legislative Assembly of Ontario

First Session, 35th Parliament

Assemblée législative de l'Ontario

Première session, 35^e législature

Official Report of Debates (Hansard)

Monday 12 August 1991

**Standing committee on
administration of justice**

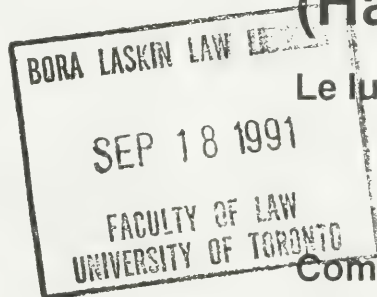
**Retail Business Establishments
Statute Law Amendment Act, 1991**

Journal des débats (Hansard)

Le lundi 12 août 1991

**Comité permanent de
l'administration de la justice**

**Loi de 1991 modifiant des lois
en ce qui concerne
les établissements de commerce
de détail**



Chair: Drummond White
Clerk: Lisa Freedman

Président : Drummond White
Greffier : Lisa Freedman



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Monday 12 August 1991

The committee met at 0906 in the Delta Hotel, Ottawa.

RETAIL BUSINESS ESTABLISHMENTS STATUTE LAW AMENDMENT ACT, 1991

LOI DE 1991 MODIFIANT DES LOIS EN CE QUI CONCERNE LES ÉTABLISSEMENTS DE COMMERCE DE DÉTAIL

Resuming consideration of Bill 115, An Act to amend the Retail Business Holidays Act and the Employment Standards Act in respect of the opening of retail business establishments and employment in them.

Reprise de l'étude du projet de loi 115, Loi modifiant la Loi sur les jours fériés dans le commerce de détail et la Loi sur les normes d'emploi en ce qui concerne l'ouverture des établissements de commerce de détail et l'emploi dans ces établissements.

The Chair: I call the standing committee on administration of justice to order. We are hearing submissions in regard to Bill 115. Before we call our first witnesses, I would like to mention that there are two documents being circulated. One is a response by the Ministry of Labour to a question Mr Sorbara put and the other is a letter from a witness from our last week's trip.

CITY OF OTTAWA

The Chair: Our first witnesses are from the city of Ottawa. Mr Jim Sevigny is commissioner of economic development, Shaun Markey is director of marketing and Ms Charlene Lambert is a senior economic development officer. For the purposes of Hansard, please identify yourselves into the mike. We have about half an hour. Please divide that time as you wish, but I am sure the members will have many questions for you. Start when you are comfortable.

Mr Sevigny: My name is Jim Sevigny. I am the commissioner of economic development for the city of Ottawa. Mr Shaun Markey is director of marketing for the department of economic development, city of Ottawa, and Charlene Lambert is a senior development officer with the department responsible, among other things, for tourism matters.

As the first individual on your itinerary for today, let me take the liberty of welcoming you to Ottawa, those of you who are not from Ottawa; I see a couple of familiar faces. For those who are from Ottawa, welcome back. May I express the hope that you have an enjoyable and fruitful deliberation here today.

The city of Ottawa appreciates having the opportunity to address this standing committee on the subject of designated tourist areas and holiday shopping. We fully recognize that the issue of Sunday shopping is a very difficult one, for we have to deal with it in some way at the city of Ottawa on almost a daily basis. We regularly hear from representatives of stores that want to open on Sundays. We also hear from

those in our community who do not believe stores should be allowed to open. Intermingled with the for and against forces are the tourists, who we want to attract, for they generate business and employment for our communities.

In drafting new legislation, we are fully aware that the government of Ontario has attempted to adopt new laws which represent a delicate balance on this problematic but unavoidable subject, and we congratulate you for recognizing the need to give tourists special consideration.

On the one hand, our province's leaders have traditionally upheld the sanctity of the Lord's Day as a time when we stop work and rest. On the other hand, our collective lifestyle is inextricably transforming itself at a breakneck speed. We are sustaining changes caused by both internal changes in attitudes and in the community at large and external influences over which we have little control.

Some of the external influences we have to face include the effects of the free trade agreement, the increase in leisure time and consequent development of tourist destinations, wide-open Sunday shopping in the Outaouais region across the river from us in the province of Quebec and the decline in our local retail sector. These changes demand that we regularly re-examine our legislation to ensure that it properly reflects the best interests of the constituents.

Ottawa is a major tourist destination. As capital of Canada, some four million people visit our city annually, employing over 25,000 local residents. Next to the federal government, the tourist sector is our largest local employer. The Ottawa area is also a major retail market. There are currently 22,550 retail employees in the city of Ottawa alone, and our region represents the fourth largest retail market in Canada.

We currently have one designated tourist area in Ottawa, the Byward Market. It is an extremely successful retail and tourist area, and with its many restaurants, boutiques, farmer's market and craft vendors, it has become the second most popular tourist attraction in Ottawa. At the time Bill 115 was introduced, we were on the verge of studying other areas we believe have potential for tourist designation, including the Sparks Street Mall, one block from Parliament Hill, Somerset Heights, a multicultural street in Ottawa, and Elgin Street, another popular downtown street for visitors. The decision to carry out a study has been postponed, however, until the new law is put into place.

Earlier this year, the city of Ottawa undertook a major study of our local retail sector, because we were deeply concerned about the health of our retail position, and more particularly our downtown, which has been in decline over the last 25 years. Whereas in 1966 downtown Ottawa retail stores represented some 40% of the area's market share, the study found that in 1990 they represented only 20.5%.

I forgot to mention that I have copies of this brief that will be distributed after we are through.

Mr Poirier: That is because you want us to listen well.

Mr Sevigny: That is right.

Information on Sunday and holiday shopping were also integral components of the study's market research. Of particular interest to this standing committee is the market knowledge we gained on tourist shopping, as extensive interviews with tourists were undertaken. Sundays and holidays are peak periods for tourist shopping, and in the ongoing debate about Sunday shopping, we believe the needs of the tourist segment may have been muddled.

The study found that on an annual basis, tourists spend over \$80 million at our local retail stores and \$145 million at eating and drinking establishments, for a total of \$225 million. The consultants tell us, however, that these are conservative figures and that the total is probably more in the range of \$250 million.

Some of the other important findings are as follows: For over 60% of all tourists interviewed, shopping hours were very to moderately important; second, almost all tourists with a preference for store hours were in favour of extension on weeknights, Sunday opening or both; third, comparative figures demonstrate that the vast majority, from 74% to 82.3%, of all tourists interviewed favour some liberalization of the existing store hours in the city of Ottawa.

Bill 115 attempts to recognize the special needs of tourists by permitting municipalities to designate special tourist areas for Sunday and holiday openings. However, the draft legislation is unnecessarily cumbersome, and we support the position of the regional municipality of Ottawa-Carleton, from which you will also be hearing, recommending that the status quo be maintained or that Bill 115 be revised to make the current mandatory regulations in the form of optional guidelines. We can foresee only endless problems in trying to sort out and apply the often ambiguous criteria set out in the draft legislation.

In conclusion, we urge the government of Ontario to continue to recognize the benefits to the economy of our province by allowing designated tourist areas. At the same time, we ask for a simple process to designate those areas we believe have potential for tourist shopping. Finally, we ask that you implement the necessary changes expeditiously so that we can carry out our examination of additional designations.

Thank you very much. I and my colleagues would be very pleased to respond to any questions you might have.

Mr Daigeler: It is a pleasure to start again on the somewhat difficult question of Sunday shopping. We have been travelling, as you know, Mr Sevigny, for the last two weeks, and hearing mostly the opinion that the Liberal legislation, even though it was opposed by many at first, turns out to be perhaps the solution that everybody can live with, and if I understand right, that is what you are saying as well. Is that correct?

Mr Sevigny: I am sorry, Mr Daigeler. I have to tell you that I do not recall what the legislation is that you refer to.

Mr Daigeler: It is the municipal option. If a particular municipality or region wants to stay open, it has the right to do so by decision of the council. If they want to stay closed, they have the right to do that as well. That is basically

what is in place now. We are going back to the legislation that was in place before the Liberal amendments, to introduce tourism exemptions, even though the minister has indicated that he certainly is agreeable to a very wide interpretation of tourism and anything that promotes tourism would certainly, in his opinion, qualify for it. I just want to recall that it was the municipal option of the Liberal government, and if I understand you right, you said: "Leave that in place. That's good enough for us."

Mr Sevigny: That is roughly what we are saying, to leave the status quo legislation. However, we think the criteria that have been brought forward under this proposed Bill 115 are good criteria and serve as reminders to people as to the reasons why tourist areas should be designated. However, we would like those criteria to be optional and we fear that an overly rigorous interpretation of those criteria will prevent municipalities from moving forward with additional designations.

Mr Daigeler: Just to be clear then, you would prefer to stay with the municipal option, but if this law goes forward, the tourism criteria should be as wide and as flexible in their interpretation as possible.

Mr Sevigny: That is correct, and let me add as well at this time, so that there will not be any confusion as to whose opinions I am expressing, that I do not have with me this morning a mandate from my city council on the issue of Bill 115. We did try to seek a specific position, but because of the summer committee schedule we were not able to do that, although the subject has been debated at some length. I think I have accurately reflected the views of the majority of city council in expressing their interest in additional tourist designations and in the comments I have put forward this morning.

Mr Sorbara: We had an opportunity in the Ottawa-Carleton area and throughout Ontario to experiment with unregulated Sunday shopping; that is, no regulation under the provincial government, compliments of Mr Justice Southey, when he determined that Bill 113 was not within the parameters of the Canadian Constitution. Ottawa, like every other community, had an opportunity to allow the business community and consumers in general to set the pace in respect of shopping on Sunday and on holidays. Can you give us the benefit of your view as to how that impacted on the Ottawa area? Did the community find it detrimental? Was it detrimental to the economy? Was the marketplace able to adjust to a situation where there was no provincial regulation? Were retail workers exploited during that time? What was the overall response of the Ottawa community to that unregulated period?

Mr Sevigny: That is a difficult question to answer. I think there was very much a mixed response. I think that the way Sunday shopping was unofficially introduced to the province by way of a court decision, coming on the heels of much debate and controversy surrounding Sunday shopping, tended only to fuel the fire in terms of the two sides that have been debating Sunday and no Sunday shopping. On a practical side, I think our experience was similar to that in other areas of the province, where most retailers felt the need to stay open on Sunday to retain their share of

the market. Subsequently, however, I think we saw a lot of those same retailers closing their stores because they felt opening was not economically a wise thing to do.

However, one cannot draw any conclusions. The main strength of a shopping centre is that it offers a wide variety of stores and services, and if people know they are all going to be open, then they will be attracted to that centre. In the experiment we had with Sunday shopping, I think all shopping centres left it open to individual retailers as to whether or not they would stay open, and so we had a situation where in the beginning two thirds of the stores in a shopping centre were open; that fell down to one third, I think, towards the end of the experiment. As a professional in this field, I would not draw any conclusions from that experience we had.

0920

The Chair: Mr Carr.

Mr Sorbara: Excuse me, Mr Chairman. I think you indicated that Mr Poirier was going to—

The Chair: We have run out of time.

Mr Sorbara: I would not have asked my question had I known you were going to deny him a question.

The Chair: We have run out of time.

Mr Carr: There may be a little bit of time at the end for Jean to take some of my time, if that is okay.

Since we have been going around the province, many municipalities have said they will be opening under the tourist exemption. Some of them have held votes in the past and will be holding votes. For example, in Thunder Bay there will be a question in the upcoming municipal election. I wondered what your thoughts were about the situation where large parts of the province begin to open, whether you would see that putting any pressure on yourselves to also come along as a sort of "me, too." Windsor will be open, Collingwood wants to open, Thunder Bay does, Kenora and so on. Do you see that putting any added pressure on the municipality?

Mr Sevigny: Yes, it certainly does. As I mentioned in the brief, we have a situation now in western Quebec where there is wide-open Sunday shopping. We do not have to spend any time on the south-of-the-border situation, which significantly affects the Ottawa market. I get very apprehensive when I see other parts of the province racing ahead with opening their cities wide for Sunday shopping. However, that being what it is, our council has decided to hold off on any future designations until this legislation has been passed or some decision has been taken by the province. That is the position of our council right now, and so I would say that our council has taken a fairly conservative position on this. Although many are apprehensive as to what is happening with our retail sector right now, they all acknowledge the importance of the tourism industry to the Ottawa area, and so we are anxious to get some clarity into this debate and get on with the task of designating more areas.

Mr Carr: The other question, just a short one, is regarding the tourist exemptions. As you know, if you do open, the ones who are opposed to it will say that you interpreted them incorrectly, and vice versa. What has been stated by a

lot of groups is that there will be a lot of legal challenges to the interpretation the municipality takes, and I just wondered if you had any thoughts on that, whether such a broad tourist exemption is good or whether you see a lot of problems, regardless of what you do, from a legal standpoint.

Mr Sevigny: Yes, I think it is inevitable that there will be legal challenges to a municipality's interpretation of the legislation because it is a controversial area. However, with sufficiently clear legislation and an appropriate public participation process, I am quite confident that we will reach some good decisions as far as what should be given a tourist designation is concerned. Those who observe the industry will conclude in a very short period of time as to those areas that legitimately have a claim to tourist designations and those other sectors of the economy that are trying to take advantage of the legislation for other reasons. There is lots of room for interpretation, but there will be some challenges, I am sure.

Mr Poirier: Jim, if you had to design your own law, very briefly, like all politicians are very brief, what would it look like, or would you draw one at all?

Mr Sevigny: Yes, with the presence of prohibited Sunday shopping for the province, certainly legislation is required. We have to have some of our stores open to take advantage of that tourist trade. Make no mistake about that. Having said that, I would leave it as flexible as possible for municipalities to deal with the question. I think those municipalities which are overly aggressive in extending tourist shopping will find that market forces will soon work against that overly expanded tourist area.

In particular, I get concerned about involving the boards of trade or chambers of commerce. These groups have indicated they are not interested in being involved. I think it just complicates the process. I would include criteria for establishing a tourist area in the legislation; however, I would make it optional. But definitely I would leave it to the municipalities and leave it as flexible as possible.

Mr Morrow: I want to thank you for taking time out, I can imagine, from your very hectic schedule to come down and talk with us this morning. This really helps us to try and set up guidelines in this legislation, which is exactly what we are trying to do here.

Our position is that the municipalities are best suited to determine what their local tourism needs are while working with our guidelines. Can you work with this legislation, as an example? How do you feel about the municipality having the final say? Would you be happy if the decisions were referred to, say, a higher body?

Mr Sevigny: No, I would not be happy with that. I like the fact that the municipalities will make the decision on the matter. I am not a lawyer and I would not want to go too much further into the legal challenges, but I would say that if criteria were optional as opposed to compulsory, it would ease the threat of legal challenge on the question of interpretation of the legislation. I do not know. But let's definitely not get a third party involved in it. Let's leave it at the local level. By third party I am talking about the boards of trade, the chambers of commerce or the tourist bureaus.

Mr Morrow: Just one more question, if you do not mind. Do you agree that a worker in the province should have the absolute right to refuse work on Sunday?

Mr Sevigny: You are obviously looking for a personal answer to this. I personally would not agree with that. I think it is just not practical for our economy to operate under that scenario.

Mr Poirier: In the tourism sector?

Mr Morrow: Retail.

Mr Sevigny: In the retail sector, "absolute" is a strong word. I would tend to disagree with that, although I answer it in that way knowing that it is a complex issue. If I go any further in answering that question I am going to get into all kinds of hot water with my local business community.

0930

Mr Fletcher: We have travelled around the province over the last few weeks. We have been in northern Ontario and also in parts of Toronto and now we are coming into the eastern part of the province. Something I have noticed as we have travelled around is that the problems they have in the north, tourist problems, are so much different then what they are here and also what they would be in Windsor or somewhere else.

I think one of the things we are looking at in terms of the tourist exemptions is that we are trying to strike a balance throughout the province—that is one of the hardest things for us to do—a balance with the tourist communities and also to create a piece of legislation that is going to allow for a common pause day for working people in the retail sector. When you first started off your presentation you said that Bill 115 is an attempt. Exactly where would the fine-tuning go as far as Ottawa is concerned?

Ms Lambert: I will try to respond. We realize it is a very difficult area to deal with and the bill has tried to appease both sides of the issue. In this bill you are trying to allow for a common pause day, recognizing that people have a right to some rest, and also to recognize the fact that our society is changing, that we have more demand for store openings on Sunday, recognizing in particular that the tourist industry is a big industry in the province and that some kind of legislation has to be in place to allow stores to be open on Sundays. It is an attempt to recognize all those various forces at play. We congratulate the government of Ontario for trying to deal with this very difficult issue.

Mr Sevigny: I think the criteria that are in the proposed legislation now are certainly moving in the right direction. I would be the last person in the room to take a run at opening up a whole city under this legislation. Having said that, I take a look around Ottawa and I talk to the retailers, the tourists and the local politicians, and it is in most cases fairly obvious to me which areas should receive serious consideration for tourist designation.

I have mentioned a couple of them in my brief. The Sparks Street mall is close to attractions. It is heritage in nature. Somerset Village is of ethnic Chinese and has other ethnic features. I think these are the areas tourists are interested in. These are the areas the drafters of the legislation have attempted to capture. I think they are moving in the

right direction. I just think a little fine-tuning with these criteria will allow us to do what we have to do.

My one fear in all of this is that Sunday shopping is such a controversial issue that the two sides in this issue are going to go at it to the extent that you are going to ruin it for the tourist designations. That is my one fear, and I am talking as somebody who gets my skull crashed every time I talk on the question of Sunday shopping or any extended hours.

I fully realize that our business community and our politicians and virtually every other group is divided right down the middle on the issue, but I would appeal to both sides of that issue on the question of tourist designations. Let's realize that the tourist dollar is extremely important to our economy, both in the tourist sector and in the retail sector. This is a good start, this draft legislation. Let's fine-tune it some more. Let's move ahead as quickly as possible to get the legislation in place and allow us, the cities and the province, to capitalize on the market that is there.

Mr Kormos: You have indicated your preference for the adjudicating to be retained at the local level rather than handed over to a body or group that would govern determinations of tourist areas for municipalities across the province. The legislation means that in areas where residents are unencumbered by regional government their municipal councils will be making that decision. In other areas—I did not say this, but people are telling me this—where communities are cursed or burdened with regional government, it will be that regional government making the decision. There are some people who suggest that the dynamics in regional government are such that sometimes some municipalities do not get as fair a shake as others within that same body. In view of your preference that the adjudicating be at the local level, if it is going to be that way would you prefer it be city councils in every respect, as compared to regional councils in some areas and municipal councils in some areas?

Mr Sevigny: Again, just as a personal view, on the one hand I would say it would be a heck of a lot easier for the city of Ottawa to deal with the tourism issue if it were at that level. On the other hand, taking a look at the bigger picture, I think it is in the best interests of the greater Ottawa area to have the issue stay with the regional municipality, because I can see a situation where the city of Ottawa would designate four or five tourist areas and the adjacent municipalities, because they felt they were competing in the same market, would proceed with designations of their own that may not be in the best interests of the local market. I think we do not have a problem in dealing at the regional municipal level on this issue, although this has never been discussed at local council levels, to my knowledge, and I think there would be support for either scenario.

Mr Kormos: Like you, I am grateful for height limits on fencing.

0940

UNITED FOOD AND COMMERCIAL WORKERS,
LOCALS 175/633

The Chair: Our next presenter is M. Daniel Lacroix from the United Food and Commercial Workers International Union. I believe you are accompanied by Betty S0mmers, president of the Ottawa and District Labour

Council, and Betty Mills, who is a retail worker. As you know, we have approximately half an hour. You can use that time as you wish. Please identify yourselves for the purpose of Hansard and proceed. Start when you are comfortable in doing so.

Mr Lacroix: I am Dan Lacroix of Local 175/633. The United Food and Commercial Workers International Union is pleased to have the opportunity to appear before the standing committee on administration of justice to present our members' views on Sunday shopping and working.

The United Food and Commercial Workers International Union, Local 175/633, is Canada's largest private sector union, representing some 45,000 members in Ontario. The UFCW represents more than 70,000 working people in Ontario, of whom 5,000 work in the Ottawa area. The Ottawa and District Labour Council and other local unions support the efforts and views of UFCW Canada with regard to the matter of Sunday shopping and working.

We applaud, in general, the government's effort in bringing forward legislation concerning the common pause day in Ontario and providing a needed restriction on both Sunday shopping and Sunday work. While this proposed legislation is an important step forward, the UFCW has five main concerns with the proposed amendments to the Retail Business Holidays Act. These concerns are related to the intent of the RBHA, the municipal option, drugstore openings on Sunday, enforcement of legislation and the definition of a "retail business." In this presentation we will present our members' views on each of these concerns. We will also address three other issues related to Sunday working and shopping.

The intent of the RBHA: The present act fails to recognize the right of the worker for a common pause day. The proposed legislation recognizes the need for and importance of a common pause day, in part I of the RBHA. The wording in the proposed amendment to subsection 4(2), such as "shall take into account" and "should be maintained," is, however, too general. This achieves only a watered-down version of what is required.

Our recommendation is that in order to ensure the intent of the RBHA is consistently followed, the amendment to subsection 4(2) regulating municipal powers should read, "The council, in passing a bylaw under subsection (1), must maintain the principle that holidays are to remain as a common pause day; that is, to ensure that they remain: days on which most businesses are not open; days on which most persons do not have to work."

To give you an example, on the August 5, 1991, civic holiday many food retailers were open for business. Our office received calls from members who were asking if they could be forced to work on a statutory holiday and what could happen if they refused. One employer even told his part-time staff he would be paying them at straight time. That was rectified, but that is just to give you an example. Our position is that our members should not have to wonder if they will have to work on a Sunday or on a stat holiday.

The municipal option: At present, the legislation implemented by the previous Liberal government provides that municipalities have full control over the decision to allow stores to open on Sundays or other holidays. There are no

regulations, no criteria and no principles to guide municipalities in making the decision. The will of municipal councils simply predominates. The provincial government has no way of stopping wide-open Sunday shopping or working. One only has to look at the high rate of applications for exemptions that are presently in the hands of the municipalities for proof of the extent of this problem.

The proposed amendment: As proposed, the decision-making process would remain in the hands of municipalities in the area.

Last year, regional council voted unanimously against Sunday shopping. The only city to pass an anti-Sunday-shopping bylaw was Kanata. Nepean wanted wide-open Sunday shopping. Ottawa and Gloucester would not pass an anti-Sunday-shopping bylaw and if Nepean opened on Sunday, so would they. This eventually led to Kanata's rescinding its law and allowing Sunday shopping.

Under the proposed rules, decisions of the municipalities would be final and the province, including the Solicitor General, would not be able to challenge the decision. In our view, this proposal would lead to wide-open Sunday shopping and working. As a result, this would fail to enshrine the common pause day as intended.

Changes can be made to the proposed amendments to ensure the entertainment, recreational and cultural pursuits of tourism, as well as the goal of enshrining the common pause day. To accomplish this, the UFCW recommends the proposed amendments be changed to reflect the following.

1. Municipalities may, by bylaw, permit retail business establishments in municipalities to be open on Sundays where it is essential to meet the educational, cultural, leisure and recreational needs of tourists, and only retail business establishments in which the total area used for serving the public or for selling or displaying to the public in the establishment is less than 4,000 square feet and the number of persons engaged in the service of the public in the establishment does not at any time exceed four.

2. The government must establish a committee represented by affected groups, such as retailers, unions and government. This committee's purpose would be to prepare and recommend a new set of regulations for tourist criteria.

3. We would also recommend that the new set of regulations formulated by the committee mentioned above be made part of the legislation.

4. Changes must be made so that any interested party may appeal the municipal council's decision to a tourist exemption review board. It can be named anything else.

Drugstore openings on Sunday: Drugstores with a square footage of 7,500 or less may open on a holiday under the present act. The major problem we see with these stores is that the major part of their sales are non-pharmaceutical. For this reason they should have to conform to the same laws as the other chains do. A perfect example of this is the advertisement in which you also find full-page ads for soft drinks, chips, cookies, juices and candies. These are two pages I took out of the paper. Other than the name on the ad, you would never know they were pharmaceutical, that it was a drugstore—cookies, soft drinks, juices, chips, cat food, deep-browned beans.

Knowing that they hardly have any competition on Sunday, these drugstores will also schedule extra personnel, not because they anticipate a run on cough medicine but because people will come in to buy soft drinks, film, light bulbs or fabric softener. To compound the problem, the absence of restrictions on the number of employees working on a Sunday or holiday allows some drugstores to dedicate extra help for the benefit of sales of these non-pharmaceutical products.

In the proposed amendment, the government has not addressed the problem of large drugstores open on Sunday. The proposed legislation also fails to put a restriction on the number of employees allowed to work on a holiday.

Our recommendation would be that the total area used for serving the public or for selling or displaying to the public in an establishment be less than 2,400 square feet and that the number of persons engaged in the service of the public in the establishment not at any time exceed four, including the pharmacist, who must be present in the establishment during business hours.

Prescriptions and other medication can be obtained in various hospitals and clinics with onsite pharmacies open on Sundays. Let us not forget the real reason drugstores were allowed to be on Sundays is so that the pharmacists may attend to prescriptions and other medical needs of the public.

The enforcement of the legislation: Currently the act provides for maximum fines of \$50,000 upon conviction for an illegal Sunday opening. Also, municipalities or the Attorney General of Ontario can apply to the Supreme Court of Ontario for an injunction to close an establishment that is opening illegally. However, there are no minimum fines. In many cases the courts are imposing a fine of \$300 upon conviction, hardly a deterrent.

Under the present act only two parties, the Attorney General of Ontario and the municipalities, are allowed to file for an injunction. Unfortunately, these two parties are in many cases not aware of violations or are not interested in filing for an injunction.

The proposed amendment: The government has proposed minimum fines of \$500 for the first and \$2,000 for the second offence. We fully support the principle of a minimum fine. However, the proposed fines are far too low. The amount of the proposed minimum fines will not deter the retailers from opening on Sundays. They would be simply seen as part of the cost of doing business. In fact, a retailer's profit for one day could easily surpass the amount of the fine. The proposed legislation has no change with regard to who applies for an injunction. We foresee the same problems of little enforcement and no action continuing.

Recommendation: In order to address the problems related to the minimum fine being an insufficient deterrent, and the lack of enforcement, we recommend the following: for first offences a minimum fine of \$10,000 for a conviction and for subsequent offences a minimum fine of \$20,000; and that subsection 8(1) be amended to read, "Upon the application to the Supreme Court by any affected or interested party, the court may order that a retail business establishment close on a holiday to ensure compliance with this act or regulation under the act."

At present, legislation similar to the UFCW proposal exists in Quebec, allowing parties to apply for an injunction. This legislation has proved to be both workable and effective. We believe that higher minimum fines, combined with the threat of an injunction filed by affected parties, would be an effective deterrent to retailers who want to open illegally on Sundays.

The definition of a "retail business": Under the existing act, the definition of a "retail business" does not include club warehouses such as Price Clubs. This flaw allows for giant stores, in the guise of membership clubs, to be open on Sundays. The government has not addressed the existing problem relating to the definition of a "retail business." As a result, club warehouses will continue to operate on Sundays.

Our recommendation: To prevent circumvention of the act by establishments such as Price Clubs, clauses 1(1)(b), 1(1)(c) and 1(1)(d) of the present act should be amended to reflect the following:

"1(1)(b) 'retail business' means the selling of goods or services by retail to any member of the public, including a member of a club or co-operative of any other group of consumers.

"1(1)(c) 'retail business establishment' means the premises where a retail business is carried on. Any space or stall in markets, particularly in covered markets and flea markets, shall be considered to be a retail business.

"1(1)(d) 'principal business' means that portion of the business which accounts for 80% of the retail business establishment's gross sales."

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Some of our general concerns regarding Sunday working and shopping and cross-border shopping: Our feeling is that people rush to the United States because they think they can get more for their money. US advertising in Canada is designed to attract Canadian shoppers. The introduction of the goods and services tax in Canada made the US option look more attractive. Also, the lower cost of gasoline in the United States makes the return trip gratifying. These are the real reasons people are shopping in the United States, not because our stores are closed in Ontario on Sundays.

Sunday shopping and working and tourism: We believe by accepting our recommendations, the recreational, entertainment and cultural needs of tourism can be met without opting for wide-open Sunday shopping or working.

Sunday working and shopping and the family: When looking at these issues, we must not think that Sunday shopping and working affects only those who work in retail; it also affects their families. A percentage of these people are married or date people who also work in retail. Sunday is really the only day they can spend together. Their children are in school all week and Sunday is the only day they can spend together.

It is our opinion that people have the same amount of money to spend over six days as they do over seven, and yet if wide-open Sunday shopping were to be law, police, transportation, delivery people, maintenance staff and other support people in retail would also be needed and would also be affected by wide-open Sunday working. A big concern, and too often forgotten, is day care services. We know of no centres that work on Sundays. Many people who run

these centres want to be home with their own families on Sunday. We have a number of single parents who would find it an unwarranted hassle to try to find a centre. Ontario needs a common pause day for workers and their families.

In conclusion, the goal of the UFCW has always been to enshrine the common pause day for retail workers, for workers in related sectors and for their families. The amendments to the Retail Business Holidays Act proposed by the Ontario government, while representing a move in the right direction, would fail to ensure that this goal is met and would serve to open doors for further erosion of the common pause day. We firmly believe that by accepting our recommendations, the maintenance of family values and the establishment of a common pause day can be realized.

UFCW Canada is prepared to work with the government of Ontario and other groups to develop and implement lasting, workable solutions which serve to establish a common pause day and at the same time strengthen the economy of the province and benefit all the people of Ontario.

The Chair: Thank you. We have a brief clarification and then Mr Poirier.

Mr Mills: I would just like to clarify a couple of points in your brief to set the record straight. I can advise you that the Attorney General of Ontario has advised that Price Clubs will fall under this act. That is on page 6. On page 8, you say that the goal "has always been the enshrinement of a common pause day for retail workers." The common pause day is the law in Ontario. It has been challenged in the courts and it has been found constitutionally sound and it is the law.

M. Poirier: Vous parlez français, Daniel ?

M. Lacroix: Oui.

M. Poirier: Bon. Lorsque la loi a été rejetée il y a quelque temps, pourriez-vous nous décrire ce qui s'est passé avec la protection des travailleurs dans les magasins ? Qu'est-ce qui est arrivé ?

M. Lacroix: Pendant les six mois durant lesquels les magasins étaient ouverts ?

M. Poirier: Exactement.

M. Lacroix: Ce qui est arrivé c'est qu'on a reçu plusieurs appels des employés qui étaient là pour nous demander quelle était la loi et s'ils pouvaient être forcés à travailler le dimanche. On a eu même des employeurs qui ne connaissaient pas exactement les critères. La plupart des employés ne voulaient pas travailler le dimanche. On a eu même des endroits ou des départements où l'employeur à qui appartenait le magasin est venu aux employés — et ce n'est pas un employeur contre un employé — mais il leur a demandé, «Comme on doit être ouvert le dimanche, je dois avoir des bouchers. Si vous êtes prêts à travailler, on va faire la rotation.»

Dans un magasin en particulier, il y avait six bouchers. Quatre ont dit oui, qu'ils étaient prêts ; il y en a deux qui ont dit, «Non, je ne veux pas travailler le dimanche», alors ils n'ont pas travaillé le dimanche. En raison des deux qui refusaient de travailler le dimanche, les quatre autres employés, à place de faire la rotation un par six, étaient pris à la faire un par quatre.

Les quatre employés se sont mis contre les deux employés qui refusaient. Alors non, ce n'était pas l'employeur qui mettait de la pression sur les employés pour qu'ils travaillent le dimanche, mais indirectement c'étaient les autres. Mais c'était l'employeur parce que les employés, à place de faire la rotation un par six, faisaient la rotation un par quatre. C'est eux qui étaient mécontents et ils commençaient à hurler après l'employé de prendre son tour. Alors, on a eu des problèmes comme ça.

Souvent, ceux qui ne voulaient pas travailler le dimanche ont perdu des heures parce que l'employeur disait, «Si tu n'es pas prêt à travailler le dimanche...» Si on avait un magasin qui avait 700 heures de travail par semaine, il coupait les heures. Alors, dans le magasin il y avait moins de service au début de la semaine. Pour ceux qui avant travaillaient au début de la semaine, le lundi, mardi et mercredi, ces heures-là étaient coupées, alors ils avaient une punition du fait qu'ils n'étaient pas prêts à travailler le dimanche.

M. Poirier: Donc, ils étaient effectivement punis.

M. Lacroix: Ils étaient punis indirectement. C'est comme toute autre chose. Ce n'était pas quelqu'un qui était là et qui disait, «Tu vas travailler, mais si tu ne veux pas travailler on te réduit tes heures de l'autre bout».

M. Poirier: Est-ce que c'est global, ceci ?

M. Lacroix: Le gros problème dans cette question c'est qu'on le voyait mais il y avait beaucoup de gens qui ne voulaient rien dire. D'après eux la loi avait été changée et elle donnait le droit d'ouvrir le dimanche, mais la loi disait que l'employé pouvait refuser. Ce n'est pas qu'ils ne connaissaient pas leurs droits, mais à quel extrême est-ce qu'ils pouvaient être assurés qu'il n'y aurait pas de punition contre eux ?

Mr Carr: Thank you for your presentation here this morning. The question I have is on page 8. Your goal and the goal of the government are similar. When the Solicitor General announced this he said the goal was to achieve a common pause day. You said that is your goal as well.

However, you go on to say on page 3 that if your amendments are not included, this proposal will lead to wide-open Sunday shopping and working as a result and that this would fail to enshrine the common pause day. Just to get it clear, unless the amendments you proposed are adopted by the government, then you will feel that the Solicitor General will have failed to reach the goal of having a common pause day for your workers.

Mr Lacroix: Our position is that the government's position right now is a step forward. We feel there are a lot of grey areas where basically we want to have the loopholes plugged or where there would be absolutely no interpretation problem. You can read that and it is either the square footage is there or whatever, so there is no grey area and everybody knows what they are dealing with. That is the reason we are saying, yes, the proposed changes are in the right direction. We would like to see changes, and it is like everything else. Hopefully we can get some of the changes, if not all of them. We definitely feel it is going in the right area, but we definitely would like to see some doors closed.

Mr Carr: The other question I had relates to the protection of the workers. As you know, the Minister of Labour,

in the same announcement, and he has been fighting all his life to protect workers, said that this will do it, that as a result of some of the legislation, the right to refuse, the retail workers will now have the strongest piece of legislation to refuse work, even above and beyond some of the other workers in this province.

During the period Sunday shopping was unregulated, that eight-month period, we also heard that there were only about 15 complaints of people being forced to work. When we met with some of the other unions, they said that was because a lot of times they did not put anything through, that there is subtle pressure and so on. Maybe you could explain your experience with the pressures that are there if municipalities open as they said they have under the tourist exemptions, some of the pressures you see happening to get people to work. You have a worker there. I do not know if she would be interested in answering—just some of your experience on how they get around the legislation.

Mr Lacroix: I can tell you that we had one store in Kanata where we had two people suspended because of wearing a support button, "Say No to Sunday Shopping." The manager came up and told them to take the button off. They said no. He told them a second time. The third time he suspended them for the remainder of the day. For that store, in as much as the people were supportive of those two individuals, we filed a grievance and we got their money back and everything else. Even though we told them we would be filing and they knew they had the right to refuse to work, the fact that these two individuals were suspended for wearing the buttons meant there was a degree of intimidation on that part. There were a lot of people who might have refused, but because of what they saw happen to their co-workers they did not want to take the chance. A lot of people who work in retail are not making a lot of money. They need every cent and they cannot afford to take the chance of being suspended, even if we end up getting the money at a later date, or if it is said, "If you don't work on Sundays, then your hours at the beginning of the week will be reduced," they cannot afford to lose any hours.

That is why a lot of times you could say you only had 15 complaints, but I can tell you that I had a lot more than 15 phone calls during those eight months from people saying: "What happens if I refuse? Can you guarantee me that there will be no reprisal?" All I could say is, "We can't guarantee there will be no reprisal, but if there is, we will fight it." Based on that, some people made their decision and others agreed to work on Sundays.

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Mr Fletcher: Mrs Mills, you were introduced as a retail worker. Does that mean you are not on the executive of your union?

Mrs B. Mills: I am a shop steward where I work.

Mr Fletcher: Where do you work?

Mrs B. Mills: I work at the M Store on Bayshore.

Mr Fletcher: This piece of legislation we are trying to introduce and the amendments to the Employment Standards Act are trying to ensure a common pause day for retail workers. That is something we campaigned on during the

election. It was a promise we wanted to keep and we are working on that. I am just wondering, why is the common pause day so important to you? I have heard from business leaders and I have heard from the union leaders. I want to hear from someone who actually works on the floor why you want this common pause day.

Mrs B. Mills: The common pause day is very important to me because that is the only day I have to spend with my family. If I had to work, and I would have to work, there is no other day I can spend with my family because of their schedules. They are all working and it is just the one day.

Mr Fletcher: Without this legislation, you said you would have to work if Sunday shopping is—

Mrs B. Mills: I still feel that we would be intimidated to work.

Mr Fletcher: That has happened in the past?

Mrs B. Mills: That has certainly happened. It has happened with the part-time people, the part-time young people. If they do not work, they just do not get any hours. The stores only have so many hours to work. We are allotted so many hours for your business. If those hours have to be spread on Sunday, then that means the part-time people have to work on a Sunday. If they want the hours, which they do, to make their money, they work. So they are intimidated.

Mr Morrow: It is so refreshing, Mrs Mills, to see a worker here.

I just have two very brief questions. My first is, how many actual workers do you represent in Ottawa?

Mr Lacroix: In the retail we probably represent over 4,000.

Mr Morrow: That is quite a few. We know through polls that 57% of the people in Ontario want to shop on Sunday, but we also know the other side of that poll is that 70% or more do not want to work on Sunday. Does that concur with your own membership or is that higher? Please explain a little bit.

Mr Lacroix: It is like everything else. Our membership is saying that yes, they do not want to work on Sundays. They would like to spend the time with their friends or their family or doing whatever.

The big problem we had last year with the Sunday issue was being paid double time. At first, it was great getting paid double time. Then we had people who were in favour of working on Sunday who wanted, let's say, this Sunday off because of studying or because they wanted to have time with their family, and it came down to where some employers were saying, "You told us you would be available to work on Sundays." So what we saw was that because to a certain degree it was hard to get people to work on a Sunday, once they did get the people, if those people wanted to back down or said they did not want to work, then all of a sudden there was pressure put on them, "Listen, from the very start, you told us you'd be available, and now you're telling us you're not." There were problems that way.

The majority of our membership, if they had to work one Sunday, okay, but when it comes down to on a weekly basis, what we found, especially with the part-time people, was that a lot of hours were lost. I know of some employers

where the hours were cut down. When Betty talks about man-hours per week, there were certain hours where they either reduced because of the costs—it cost them more to have people on Sundays, so at the beginning of the week it was like a skeleton crew in the store. What happened was that if people refused to work on the Sunday, their hours were cut on Monday, Tuesday, Wednesday. So they were definitely affected by Sunday shopping.

The Chair: Unfortunately, we have run out of time. I want to thank all three of you for your presentation.

Mr Sorbara: Mr Chairman, might I just bring up a request for information arising from the questions and answers with our last presenters? Over the course of these hearings, we have been hearing reports that during the period when Sunday shopping was unregulated as a result of the decision of Mr Justice Southey, or indeed during the period of Bill 114 which provides the workers with a right to refuse unreasonable assignments of Sunday work, there were some 15 complaints in the ministry. My request for information relates to the nature of those complaints.

If you examine the legislation, it is designed to allow workers and employers who have a disagreement as to what is or is not a reasonable assignment of Sunday work to bring the matter before the ministry, to have that resolved by an employment standards officer and, if an employment standards officer cannot resolve it, then to the level of a tribunal.

I would be interested in knowing the real subject matter of those 15 complaints. Were they really a request for a resolution of a difference, a kind of arbitration between workers and employers, or were they bona fide complaints that the employer was violating the law, that is to say, taking retaliatory action of the kind described by our last presenters as a result of a refusal by a worker to work on Sunday on the basis that the assignment was unreasonable? If I could put that request for information before you and have you direct it to the Ministry of Labour, it would be greatly appreciated.

The Chair: I understand our assistant from the Ministry of Labour is taking your question down, and undoubtedly an answer will be faxed to us as soon as possible, probably within 24 hours.

1010

SPARKS STREET MALL AUTHORITY

The Chair: Our next presenter is not on our schedule. That is because the city of Cornwall sent in its regrets, as its position was supposedly well known. We have, on a moment's notice, Mr Sam Birnbaum, who is the chair of the Sparks Street Mall Authority in the city of Ottawa. We have a little less than half an hour, perhaps around 20 minutes. Please spend some time with your presentation and then the committee members, I am sure, will be anxious to ask you questions.

Mr Birnbaum: I appreciate the short notice and the ability to address this committee.

I represent the Sparks Street Mall, the entire stretch from Elgin to Lyon, with a substantial number of businesses in the centre of the city of Ottawa. When people think of Ottawa,

they think of the Sparks Street Mall. One of the concerns over the years in developing such a facility is that people look to these complexes for a certain type of shopping. When they come to a city like Ottawa as tourists, they like to be able to come out and browse and purchase and do what they have to. One of the few industries available is the restaurant industry, the hospitality industry, whether it is hotels or restaurants. Most other businesses are closed.

We have seen our representation to the municipalities, and higher areas such as provincial government, go unheeded in terms of trying to get this flexibility. We recognize the fact that in these hearings you are trying to address this particular situation. I have a couple of items that I would like to bring forth concerning the issues before this committee in its search for an answer.

One of them is that business, in opening on Sunday, will detract from a common pause day. I just want to bring it to your attention that there are many industries where the employee and the employer have to open on Sundays, whether it is public transportation, hospitals, the restaurant industry, hotels. There are many industries that work on Sundays.

As we go into the 1990s more, and into the 21st century, the idea of a particular or common pause day should not, in our estimation, be based on those criteria. There are labour laws now in effect that clearly state the terms on which a person can work, or should work. We believe very strongly that it would allow for more opportunities and more jobs, rather than the reverse.

We believe very strongly that opening on Sunday, particularly in areas designated for tourism, allows greater expansion of revenues and, as a result, more opportunity for employment. We also firmly believe that this would increase the taxes available, both to the province and to the particular municipalities.

We also believe that businesses should be allowed to make the choice. In a business climate it should be their choice.

One of the clear concerns we have, and I have in representing the street, is that we be allowed by the provincial government, the province of Ontario, and the municipality of Ottawa to make the choice, an easy choice, without worrying about the cumbersome bureaucratic red tape necessary to handle it, that is, to allow a street like ours, that has made representation to the city, to be designated as a tourist area, so that we can open on Sunday and expand our venue for the tourism industry.

That is our prime concern. If we are not able to do that, one of our concerns for Sparks Street, like many other areas in the city and in the province, is that the tourism dollar will drop. Most tourists come into towns on weekends, and that is the time they have in which to spend their dollars. Let us make it easier, as we go into the 1990s and the 21st century, not more difficult. Thank you.

The Chair: Thank you, Mr Birnbaum. We have just short of five minutes per caucus. Mr Sorbara.

Mr Sorbara: Thank you, Mr Birnbaum, for your presentation. I take it that the business you operate is open on Sunday.

Mr Birnbaum: Yes.

Mr Sorbara: If there were individuals within your workforce who put it to you that they would prefer not to work on Sundays by reason of family, by reason of religion, by reason of peculiarities in their individual lives, what would your response be to that?

Mr Birnbaum: I make it very clear, and I am not alone in this, that I have never, as far as I know, and that can be easily corroborated, refused an employee to have a day off on Sunday. I just bring in other part-time people who may want to work.

I believe that would be the same in the regular retail industry. I do not think the figures are that high, that people are refused. There may be a few employers who do not believe that their employees have a right to a day off, whether it is a common day, designated or otherwise, but the choice should be in the marketplace as such.

Mr Sorbara: So in this business of trying to regulate Sundays, the inclusion of a measure of protection for retail workers does not offend you. If you were bound by the law, this would not represent an impossible accommodation; you would tend to accommodate your employees, and particularly those employees who prefer not to work on Sunday. Is that the case?

Mr Birnbaum: I do that now, yes. I would like to add that I do not believe, as I indicated, there are that many people in this province who actually force their employees to work a Sunday, and deprive them of another day. I know that in our industry, the hospitality industry, most of the people get the day off because there are enough people who want to work. I believe that is the case.

Mr Sorbara: For a period of about nine months there was no provincial law regulating Sunday shopping. The law that was in force was found to be unconstitutional by Mr Justice Southey. Prior to a review of that decision in the Ontario Court of Appeal, we had about nine months where the extent of Sunday shopping was governed by the interest of the retailer in opening on Sunday and the interest of the consumer population in shopping on Sunday.

Can you describe to this committee what the effect of that period of liberty was on retailing in Ottawa and generally what Sundays were like, and whether there was any deterioration in the quality of life in Ottawa as a result of that nine-month period of liberty?

Mr Birnbaum: There are two answers to that: one, directly in response to your question is the fact that there were very few problems relating to employees working Sunday in the overall scope of people who had to work. It was more the employer who had to be there than the employee as such. So there was no problem as far as the labour code and the labour people were concerned.

The second answer to your question is that, yes, it gave more choice to people who live in areas where they are not able to do their shopping in the evening, let's say, because they live in the centre part of Ottawa; and there was not that flexibility before because the hours were not there. There were people who appreciated being able to shop on Sunday—they had never been able before—and it was during a period when there were not that many shoppers going south of the border or to other areas.

Clearly it was appreciated by the shopper who wanted the ability to shop on Sunday. But I would like to indicate to you that the ability to shop on Sunday should be vested with the business community to create a healthier climate for expansion of labour and for expansion of revenues, rather than having to limit business and to enforce or impose legislation for more tax dollars. I think that is a regressive issue. I think opening up the Sunday-shopping law would be the answer.

Mr Carr: Thank you very much for jumping in this morning at such short notice. I appreciate your comments. Some of the business groups that have come through have said there is an increasing amount of money spent when they have Sunday shopping; this is in some of the border towns, as well as some of the tourist areas. They say: "They will spend it in our area rather than going back to their home area on a Sunday and spending it," whether it be groceries or whatever.

I was just wondering if you could expand a little on that. You heard the presenters before you. You may have heard them say there is no increased amount spent, that there is only a certain amount of money. I was wondering if you could explain what your experience has been in the industry.

Mr Birnbaum: Concerning Sparks Street, we can clearly indicate that during the period in which Sunday laws were somewhat open, there were definitely more dollars spent in the particular area. When Sunday shopping was reversed recently, the dollars definitely dropped.

Mr Carr: The other question I had relates to the situation of the tourist exemption. There is a lot of debate about what municipalities will do with that. Certainly, being a non-lawyer, I would look at it and see that you meet many of the criteria. But still, ultimately, the municipality can say, "No, we're opposed to Sunday shopping" and not give you that tourist exemption.

I wonder what your comments would be about the tourist exemption. Do you think it is broad enough, too broad—maybe just a few of your thoughts on that.

1020

Mr Birnbaum: We would like to keep it flexible enough, as Mr Sevigny of the city of Ottawa has indicated, so that there is not a problem for them in being able to implement tourist designations. The Sparks Street Mall Authority, with the BIA, one of our counterparts, has taken a survey. We have a majority requesting it. We have now put a third request in to the city. Because of these hearings, as you heard Mr Sevigny say, it has been put on the backburner until this is resolved. That creates a difficulty with us because as time goes on these are dollars that we are losing, in the hundreds of thousands of dollars, and we would like to see that we get our designation as quickly as possible.

There are many areas like ours in the province and we would like to see it enacted. In response to your question, we would like to see the ability to create a tourist designation to be as easy and as flexible as possible on the part of the province.

Mr Daigeler: Would you expect any difficulties from Ottawa city council to have Sparks Street declared a tourism area?

Mr Birnbaum: If this committee were to make it as easy and as flexible as possible tomorrow, I would expect no difficulty from the city in giving us our designation as quickly as possible.

Mr Daigeler: I can perhaps comfort you in that regard. The previous minister, because the new minister has not appeared yet, certainly was extremely accommodating in his interpretation of the criteria. Basically he said that anything that promotes tourism can be designated a tourism area.

Mr Birnbaum: If the end result of the comments are such that it becomes the truth, and we hope that is the case, we are going to hold the city to what its comments were here today very clearly, that it act accordingly and as expeditiously as possible.

Mr Daigeler: Was Sparks Street declared a tourist area before the Liberal amendments were introduced?

Mr Birnbaum: No. There were always thoughts that it should be, and for the first time during my tenure now as chairman we have the mandate by the street in having made presentation to the city.

Mr Mills: Thank you for coming here and representing the Sparks Street Mall merchants on short notice. I can understand your apprehension, but I think that what this bill is all about is to address the importance of tourism in Ontario. Just to perhaps reassure you, during the second reading of this bill in the Legislature on June 17, I said this, and I would just like you to listen, "This bill supports and protects Ontario's tourism industry by providing province-wide criteria for an exemption of tourist-based businesses regarding holiday closing requirements."

I would just like to let you know that the tourism criteria are very much there; the criteria are a draft regulation. We are here to hear from people how we can fine-tune it and how we can make this law better. In my opinion, based upon the Sparks Street Mall, and I know it well, if you apply to the municipality and that mall meets the tourist criteria laid down in the bill, I am sure, sir, that you will have a happy and prosperous time on Sparks Street. Thank you for coming.

Mr Birnbaum: I have read it and I appreciate it. Thank you.

Mr Lessard: You are not off the hot seat yet. Are you familiar with the draft criteria that are proposed in the regulations respecting the tourist exemptions?

Mr Birnbaum: I am aware of most of them, not in fine detail. I was away for a while, but I am aware of most of it.

Mr Lessard: Do you think that is going to be of assistance to the merchants on Sparks Street? Do you think that is going to assist you in being able to be declared a tourist area?

Mr Birnbaum: In good part, yes.

Mr Lessard: Actually, this legislation, for the merchants who are on Sparks Street, is probably going to accommodate you, whereas you have been trying, under previous legislation, for 10 years and it has not. Would you agree with that?

Mr Birnbaum: I would agree with that. I am only here to make sure that the guidelines be as broad as possible, so that if the city turns around and says it wants to be able to

apply every area of the city that wants tourist designation, we do not want to necessarily be impeded from having our designation, which is important. There are other tourist areas in the city, so if they are looking at the broad spectrum, as many cities might, it may cause a problem. My concern to this committee in addressing it is to make sure, with allowing as much freedom of expression within certain boundaries, that the municipality of Ottawa can act to the best for Sparks Street and perhaps other areas.

Mr Lessard: Do you have any opinion as to whether it should be the regional municipality or the city of Ottawa that should make those sorts of decisions?

Mr Birnbaum: Emphatically, I would answer that it should be the city of Ottawa. We do not need another level of government with more committees to handle it.

The Chair: Thank you, Mr Birnbaum.

GREATER OTTAWA
HOTEL AND MOTEL ASSOCIATION
OTTAWA HOTELIERS INC

The Chair: Our next presenter is Mr Michael Levinson from the Ontario Hotel and Motel Association.

Mr Sorbara: Just while our next presenter is taking his seat, Mr Chairman, has anyone publicly welcomed the member from Welland-Thorold to the committee? It is great to see him here. The reason it is so good to see him here is because we have had a sort of party line from all of his colleagues, the government members, and I fully expect that, in true tradition, Mr Kormos might be wanting to express an independent view and certainly a more critical view of the government's legislation. That would be my expectation.

Mr Kormos: Far be it from me to not be independent or even occasionally candid, Mr Chairman.

Mr Sorbara: Well, I would not go that far.

Mr Kormos: What an intro. I am so pleased to see Mr Sorbara in my corner. Perhaps we can do wonderful things.

The Chair: I think Mr Kormos has been duly recognized. Mr Klopp, Mr Jordan, and Mr Daigeler should all also be recognized. However, on the other hand Mr Levinson should also be recognized. Mr Levinson, you have been observing for a while. We have approximately half an hour. Please divide that time as you wish but I am sure the committee members will have many questions for you. Proceed when you are comfortable to do so.

Mr Levinson: My name is Michael Levinson. I operate two hotels here in Ottawa: the Albert at Bay Suite Hotel and Victoria Park Suites. Please let me know if I speak too quickly. I happen to have a tendency to do that. I am speaking here today as a representative of the Greater Ottawa Hotel and Motel Association, which is the local zone association of the Ontario Hotel and Motel Association. I am also representing Ottawa Hoteliers Inc.

The Ontario Hotel and Motel Association has been incorporated since 1925. The objectives of the association are to represent the hotel, motel and food and beverage industry in government and legislative matters; to provide means for members to exchange information on problems and new ideas; to review industry trends and develop forecasts;

to develop guidelines for professional conduct in the industry; to develop educational programs and services; to provide guidelines for accommodation and operating standards in the industry; and to act as a focal point for organizing joint efforts among members for solutions of industry problems. The association represents over 1,200 members, ranging from hotels, motels, taverns, restaurants, and resorts throughout the province. Locally we represent over 7,000 hotel rooms in the Ottawa area and over 7,000 restaurant seats.

Ottawa Hoteliers Inc was formed in 1988. The objects of OHI are to promote and develop the national capital area as a destination for tourists, business representatives, and the public generally, and to promote goodwill and better understanding among members of the public in general, and government bodies in particular, for the hospitality industry in the national capital area. OHI currently has 11 members including the Chateau Laurier, Chimo Hotel, the Delta Hotel, the Hilton, Les Suites, the Lord Elgin, Novotel, Radisson, Skyline Ottawa, the Westin, and the Albert at Bay Suite Hotel. The membership list continues to grow.

Bill 115 is a major concern to us in the hospitality industry. Something that we never lose sight of is that our industry does not, in itself, provide the destination to bring visitors to the city. All we do is provide the accommodation and the meals. It is the city as a whole that brings the visitors in. People come to Ottawa and other areas of our province not for our hotels but for our activities, sights, the people. Shopping is an integral part of the visitors' experience in our province. It should be no surprise to anyone here today to hear that tourism is down. Another big issue making headlines is cross-border shopping.

1030

In recessionary times such as these we see how important tourism is to our economy. Tourists who come to our province stay in our hotels, motels, campgrounds, etc. They eat in our restaurants and shop in our stores and use our services. In turn, businesses that cater to tourists buy goods and services from other companies, who in turn buy from other companies, and on and on it goes. One tourist dollar can rebound within our economy to be worth over hundreds, and maybe even thousands, of dollars for local businesses. Of course, when businesses are doing well, tax revenues are up and the federal and provincial governments have plenty of money to run the country and start programs for the public good. It all stems from tourism. There is no other industry in this province that is as large or hires more people.

Why is it then, if tourism is so important to our economy, that we repeatedly see various levels of government of this country impose new taxes and new restrictions that impede our ability to attract tourists? The Ontario government's treatment of Sunday shopping and its view towards a common pause day do just that. It hurts the very people whose job it is to protect and serve. Bill 115 offers somewhat of a compromise but it is still not the solution. On behalf of the Greater Ottawa Hotel and Motel Association and Ottawa Hoteliers Inc I urge the members of the standing committee on administration of justice to consider the following: that Ontario encourage tourists and

visitors by having unrestricted retail shopping on Sundays and holidays in all areas throughout the province as the market dictates, without any restrictions. We are in favour of unrestricted Sunday and holiday shopping. We feel that unrestricted Sunday and holiday shopping is vital to the economy and the tourism industry throughout the province.

I want to talk briefly about the hospitality industry and tourism in general. This industry is the largest private sector employer, and the service sector accounts for over 70% of all new jobs. Tourism is responsible for the creation of 32 full-time jobs for every \$1 million in tourism expenditures. Our hotels and restaurants employ professionals, educated, uneducated, skilled and unskilled workers. It is the largest employer of women, youth, and visible minorities. No other employer is capable of this range of employment, and guess what? We are open for business on Sundays and holidays. In 1990 tourism generated direct expenditures of \$15.5 billion, with an estimated total income of \$36.9 billion. It is one of the nation's largest generators of personal income, corporate, property, business, and sales taxes to all levels of government, including \$1.85 billion to the province of Ontario, \$2.5 billion to the federal government, and \$300 million to municipal governments in 1989 alone.

The closure of retail business on Sundays has meant job losses to many, especially students who rely on this income for their schooling and others wishing to supplement their income. We have seen a drop in business over the last couple of years. Our members throughout the province strongly feel that the availability of Sunday shopping will certainly help alleviate the slumping economy. We recognize that other factors have contributed to the decrease in revenue but we feel that the freedom of choice to open and work at retail businesses on Sundays and holidays is a means to reverse this problem, with emphasis on the freedom of choice. The problem is not that we are not attracting the American and foreign tourist like we used to; we are not getting Canadian tourists either. That, in my mind, is the greatest cause of worry.

Cross-border shopping probably has been beaten to death, but I feel I must address it. The answer to cross-border shopping is not to make it harder for Canadians to cross back into the country or to impose new levies and duties. Just this past weekend I saw almost a full-page ad in the Ottawa Citizen advertising a grocery supermarket in Messina. Will people actually drive from Ottawa to the United States just for cheaper groceries? What about the time and effort to cross the border? Yet, obviously, the supermarket felt it wise to spend thousands of dollars to advertise in the Ottawa newspaper.

What concerns us is that while day crossings are up, people are also staying overnight so they can declare more upon return. They are staying in American hotels and eating in American restaurants. The lineups at our borders on a Sunday illustrate this point. How can we compete and encourage people to travel to and within our province? The hospitality industry is faced today with many obstacles and increased operating costs. We are not able to always compete on price alone. Our costs and our taxes are much higher. We must compete as an attraction that offers the facilities and services that tourists demand. It does not take

a genius to see that Sunday shopping is something people are looking for when they travel.

We have seen a change in the way people travel. Trips have become shorter, both in duration and advanced booking time. We are seeing fewer people flying and more are packing up the family and hopping into the family car. I was speaking to a representative from the Canadian Automobile Association and he told me they have never been busier. More people are travelling as a family now. Hotels and restaurants are scrambling to cater to the family market. People are shopping more and more as a family outing, especially when on holiday. I have heard an emotional argument that Sunday shopping will separate families. Conversely, I might say that it keeps them together. None of the employees in our establishments who work Sundays have found any hardship. Why should a few retail workers have any problems? How big a workforce are we talking about anyway? It certainly pales in comparison to the hospitality industry, and we are open Sundays.

The concept of a common pause day in Ontario is grossly outdated and discriminatory. Multicultural Ontario in the 1990s is populated with every religion and ethnic background, and to allow one faith, belief, or ethnic custom to dictate the lifestyles of everyone is wrong. Our contemporary society shows that Ontarians work at all hours of the day and night throughout the week. To our accommodation and food service industry we must add hospitals, transportation—public and private—gas stations, utilities, and convenience stores, just to name a few, all of whom must work 24 hours, 7 days a week. While some people rest, others conduct business and provide services. Their professions are a necessity to any community, and I do not believe that their quality of life is diminished by their work schedules. We must provide these products, experiences, and services to our customers when they want them, or risk losing them to other competing jurisdictions. A common pause day should not exist, and there is no justification for one.

To have the government legislate the people's habits, such as shopping, is as misplaced as interfering with religion, and fundamentally goes against people's right of choice. While Bill 115 has some merit, and we do appreciate the Ontario government's recognition of the value and importance of tourism in this legislation, we do feel, however, that the interpretation of the tourism criteria would create a lot of confusion, not to mention administrative nightmares and time and cost. To limit the timing for municipalities to declare themselves as tourist areas would also be too restricting, as circumstance could, and most likely would, change at a later date. In Ottawa, we have seen yesterday's slum area become today's tourist area of major significance.

We appreciate that the proposed amendments to part XI-B of the Employment Standards Act recognize the operating realities of our industry. It is most important that all employers retain the right to schedule work and dictate work schedules. It is important that out of more than 10,000 inquiries and complaints registered with the employment standards branch of the Ontario Ministry of Labour in 1990, fewer than 15 were related to the right of retail

workers to refuse to work on Sundays and holidays. I must stress it is not complaints, necessarily, it is inquiries as well, 15 complaints and inquiries.

We also feel that the restriction on the number of persons serving and floor space occupied is discriminatory.

In closing, we respectfully request that the members of the standing committee on administration of justice seriously consider the following: that Ontario encourage tourists and visitors by having unrestricted retail shopping on Sundays and holidays in all areas throughout the province, as the market dictates, without any restrictions; that the restrictions for retail businesses, the number of persons serving and the floor space occupied, should be deleted, as this is discriminatory; that the concept of a common pause day be eliminated. Let people choose their own day of rest.

It has often been said that people would be willing to spend a little more for a better product, better service or for the sake of convenience. Product quality and service are beyond the jurisdiction of the Ontario government. As for product quality, I must say that I believe Canadian-sold goods to be about the same as American goods. "Service culture" is the catchphrase of the 1990s. If our retailers do not learn how to give exceptional service, they will not see the decade's end. As far as convenience goes, if one wants to go shopping on Sunday, then the most convenient place is south of the border. The Ontario government can change that. We can make it convenient to shop at home again when people want to shop and give tourism a boost by enhancing the tourist experience by allowing shopping.

It is unfortunate that Sunday shopping is being addressed as a political issue rather than an economic issue. On a political level, we know that whatever the legislation does, it will be wrong for the vast number of Ontarians. As an economic issue, we truly cannot afford to restrict Sunday shopping and holiday shopping. There is too much at stake. For visitors to our province, going shopping is as much an attraction as visiting one of our museums.

I said earlier that tourist dollars spent within our communities rebounded and multiplied. The same goes for dollars spent outside our communities, such as the United States. Millions of dollars and hundreds of jobs are being lost from our communities because of the restrictive laws on shopping and our taxes. It truly seems that our legislative policies are self-defeating.

I appreciate having the opportunity to speak on behalf of our members on this important issue.

1040

Mr Sorbara: Mr Levinson, let me congratulate you on getting through a very well-thought-out brief very quickly. I think the point that you made, by the way, about the nature of family activities is an extremely important one.

Just to share with you a little anecdote, the last time I packed up my family into the family van and came to Ottawa, I had a devil of a time getting my children inside the National Gallery. They were glad once I did, but these are kids who are 12 and 13 and 14. But I did not have any trouble at all saying, "Let's go shopping now for some things to bring home to the kids who didn't come on the trip."

That was not a Sunday, but I think probably the same is true on Sundays.

Do I take it that what you are saying is that if your industry—the hotel industry, the tourism industry, the accommodation industry—is to be able to meet its full potential in the Ottawa-Carleton area, you need to have that component of the tourist experience available to tourists seven days a week, and that is the ability to browse and shop and just sort of seek out Ottawa on any day of the week? Is that the case?

Mr Levinson: I really feel that we actually have a crisis going on right now. Tourism has never been worse. We have never seen a worse summer than this summer here in Ottawa. Yes, there are lots of factors involved, but we find repeatedly in talking to the people staying in our hotels, people eating in our restaurants, a big complaint that they find, especially American tourists, is the lack of things to do on a Sunday, and they are here for the week-ends for the most part. The shopping is something they are looking for, and we really feel that adds to the attractiveness of any area in this province by people coming in, having things to do, and shopping in our stores is part of that experience.

Mr Sorbara: Is it safe to say then that part of the solution to the difficulty that the tourist industry is confronting in Ottawa is a greater sense of freedom for the marketplace to shape the kind of Ottawa it is going to present to tourists by virtue of the market forces that exist?

Mr Levinson: I think so. As I said in my presentation, we cannot compete on price. That is the bottom line. We will never be able to offer hotel rooms or dinners in our restaurants as cheaply as the Americans can. That is a fact.

Mr Sorbara: You are in a business that must, by its very nature, operate seven days a week. I have walked by your little quite new and quite beautiful hotel, hotel suites, just around the corner here. It is Albert at Bay. It was about 12:30 last night. I had not seen it before, and I sort of wondered out loud how you are competing in that kind of new hotel suite market. But you have to operate 365 days a year. Is it a problem for you to identify a workforce that is willing and able and available to work on Sundays?

Mr Levinson: Not at all. As a matter of fact, there are more people applying for jobs than I can accommodate at this point in time. We are constantly turning away people. We get applications every single day, people walking in looking for jobs. A lot of that work is on weekends, people wanting to supplement their income, students. It is August now. People are going back to school shortly. There are a lot of students out there looking for work.

Mr Sorbara: If someone who is applying for a job and someone who you are interested in hiring suggested that they would prefer their 40 or 35 or 42 hours a week not to include Sundays, would you exclude that person from consideration?

Mr Levinson: That is never a problem. As a matter of fact, we have some employees—I have one employee who only wants to work midnight to 8 in the morning. Because of his home situation, he prefers that. His wife works during the day and he takes care of the kids during the day, so he works in the evenings. He will not work during the days.

He also works the Sunday night at well. There are a lot of people who want those hours, and I feel that we as an industry, and I think the retailers as well, would not force anybody to work days they do not want to work, be it a Sunday, a Saturday or a Thursday, for that matter.

Mr Sorbara: During the period when there was no law in the province of Ontario, did you find that the quality of life in the Ottawa-Carleton region was deteriorating?

Mr Levinson: Actually, I am going to answer that in a roundabout way, based on the question you asked the previous presenter. I have to say that when Sunday shopping was opened up wide, with no restrictions, I think what would happen—people were talking about possible complaints of employees being forced to work on a Sunday. I want to address it by saying I think there is a transitional period that when retailers were suddenly opening up on Sundays, they did not have the people to work the Sundays yet. They had not started the jobs, had not started hiring and training these people. There was an adjustment period that people who generally work during the week who have been trained were being asked to fill that time. I feel that if it was an ongoing situation the workforce would be created and people trained who specifically want to work those hours and it would continue smoothly.

I also feel that with unrestricted shopping we would see very quickly that areas would find themselves that they basically thrive on Sundays, and other areas would not. Certain areas would not be open Sunday and other areas would. It would sort of be like the tourist areas but without actually designating it as such. I hope that answers your question, but I really think there is an adjustment period the employees would find if you matched the right jobs if you want to work those hours.

Mr Jordan: Thank you for coming this morning, Mr Levinson. I was wondering if you see this legislation as a means of providing a service to the tourist industry or a means of protecting the retail worker regarding a rest day.

Mr Levinson: No. I think it does not go far enough in terms of that. Actually, maybe I said that wrong. I really feel that it is going to cause more problems, because designating an area as a tourist area—what is a tourist area? There is confusion there. Historic significance: What is that? I mean, a new building built today, one can say historically it is going to be significant in the future. We can gentrify an area that has been a slum area and make it a beautiful tourist area. We see that happen all over the province. That is something that previously had no historic significance. I really feel that there should not be limitations on what a tourist area is.

As for the protection of workers, I truly feel there should be legislation protecting workers from having to work more hours than they should, but designating one particular day that they cannot work is actually harming those who do want to work. I really feel very strongly about that, that there are a lot of people who do. I see them come in the hotel. I have family in the retail business. There are people who do want to work on Sundays, and yes, there are a lot of people who do not want to work on Sundays. I feel that having a common pause day is discriminatory. It does not

allow those to meet their potential and to do what they want to do. So I do not think this legislation solves anything. I really feel the way to legislate it is that employees can only work so many hours and they must have days off, etc, but not saying one particular day.

Mr Carr: Thank you for taking the time to come in. Very clearly, since we have travelled around the province, we have municipalities that are going to take those options. I think very clearly there will be Sunday shopping in this province. Whether it is 50%, 60%, 75% I guess is the only question right now.

My question to you is this: If we had this patchwork of openings, one municipality open and one not open, how would you see that affecting your workers or your industry? Obviously the ones that were closed would be affected. Do you think it would still be better to have some open and some not open, rather than have them all close down? Maybe you could just comment how you see this patchwork working.

Mr Levinson: For the record, I have to say—and in talking to a lot of retailers, and I have, and a lot of the retailers I have spoken to are family-owned businesses; they are not major retail chains—I truly believe that not all retail should be open on Sunday. What I am saying, though, is that it should not be restricted to who may open and who may not open. I feel that if you get a patchwork, there is confusion for tourists. People come into the province, and here we are spending a lot of money advertising Ontario, and there is a lot of confusion going on. People do not know what to expect. If they know that in one city they go to there is lots of Sunday shopping and another city they go to there is none, it creates a problem and there is a disparity within the province.

One person's definition of a tourist area does not match another. I can give you an example. In Toronto, the Eaton Centre really is a tourist destination. The Rideau Centre here in Ottawa could be the same thing, but it does not fit under the criterion of having historical significance really. But it truly draws a lot of people. Look at the number of hotels just in that area around the Rideau Centre. I would say there must be about 2,000 hotel rooms right there, maybe more. The Byward Market next door is open, but it only offers limited shopping, basically.

I do not know if I am answering your question exactly, but I feel the patchwork you say would occur if it was unrestricted—as I said earlier, some businesses would be open. I do not think Bank Street would really survive on Sundays, yet I do think the Sparks Street Mall and Rideau Street, perhaps, around the Rideau Centre, would survive, maybe Somerset Street. There are certain areas that would thrive. That is basically my answer.

Mr Fletcher: I appreciate your being here this morning. I understand from your brief that at least we are making a step in the right direction, and that is very encouraging. First, you asked a couple of questions and made some assumptions.

How many retail workers are there? About a third of the working population in Ontario are people who are in

the retail working sector, so this is a lot of people it is going to affect.

As far as the Sunday working or Sunday shopping are concerned, Sunday working especially, the Employment Standards Act amendments are there to ensure that retail workers will have a common pause day and also ensure that all Sunday retail work is voluntary. So it does not mean it is going to be a Sunday, that common pause day. That is something that you should know.

1050

Mr Levinson: I am glad you clarified that, because as I said, every worker should have a pause day.

Mr Fletcher: Right, and this is not saying it is going to be Sunday.

Mr Levinson: It does not have to be Sunday.

Mr Fletcher: No. Again, as far as the intimidation or coercion by retail people, in 1988 Zellers was making people sign a form that required, and let me just quote, "If Sunday is no longer legislated as a holiday or a day of rest, I understand that Zellers may require me to work on Sunday as part of my regular work week, and my refusal to do so may be considered cause for dismissal." That was something that was going around that people would have to sign, so there was coercion in a form. That is something we are trying to get rid of.

Mr Levinson: If I could answer that briefly, in the hotel industry, every employee whom I interview, whom I hire, is asked, "Are you aware that the job is such that you may have to work evenings and you may have to work weekends?" They tell me what their preferred schedule is. Sometimes you have someone scheduled for the weekend and they call in sick or they are on holiday and you ask the other employees. I have often found that these other employees have agreed, but it is not every Sunday; it is on occasion. People are very reasonable in that.

Mr Fletcher: But you are not making them fill out a form saying, "If you don't work you're going to be dismissed," or anything like that.

Mr Levinson: No, but they are very clearly told that working on the weekend may be required.

Mr Fletcher: That is right. No problem with that. This is for the retail workers anyway.

Mr Sorbara: On a point of order, Mr Chairman: Mr Fletcher has quoted from an employment contract that was being utilized for a very short period of time during my time as Minister of Labour. I know he would not want to inadvertently mislead this committee or the public participating in these hearings, and I raise my point of order on that basis. The committee should be aware of three points. The first is that—

The Chair: That is not a point of order.

Mr Sorbara: Mr Chairman, I feel that it is and I am surprised that you are not going to let me conclude my comments.

The Chair: You feel that committee members should be aware.

Mr Levinson: If I can address it very quickly, I want to say as a presenter here that employment contracts are the norm in various industries and various jobs. Some people have employees sign things saying they will not disclose information or, when people sell a business, they will not work in the same field. There are all kinds of restrictions in employment contracts, and if employees wilfully sign an employee contract after reading it, it should be a contract.

Mr Fletcher: Just as long as it does not violate the law. I agree with that, and this one was. As far as the tourist part of this, you were saying cross-border shopping is going to be affected. We know there are things other than Sunday shopping that affect cross-border shopping—GST, free trade, the dollar and everything else—and also that your business has been going downhill and you are trying to attract Ontario residents. It is strange, because when I look at the figures from 1990, last year, total travel in Ontario from all origins was up about 18.4%, and Ontario residents' total travel within Ontario was up 24.8% over 1989. Also in that year the hotel and motel people were increasing their residence by 53.6%, which is interesting, because we had that period of time in there when there was wide-open Sunday shopping. But in the same period of time that there was wide-open Sunday shopping, travel to the USA was up 21%, which means that the Sunday shopping did not really have an effect on people travelling to the United States. Again, that is something else, as I said, other factors.

What is really interesting and what really gets to me is when you say the number of jobs you are going to create, yet while we had the increased travel, the increased profits, the employment in these areas was down 4.7% in the accommodation area and 7.5% for the food and beverage area. So I am trying to get a handle on why—unless you are saying that it is everything else—Sunday shopping is going to enhance your industry.

Mr Levinson: To answer that, first, I do not know where you got your figures.

Mr Fletcher: Let me just say it is from the Ministry of Tourism and Recreation.

Mr Levinson: Okay, but there are a number of things you have to look at that are going on at the same time. You cannot confuse different issues.

Last year we saw about an 8% drop in tourism. This year we have seen about a 10% drop from the year before, which is an 18% drop from two years before that. We have also seen the same thing—remember there was a Gulf war as well. People stopped flying. People started driving within a two- to three-hour distance of where they lived.

Mr Fletcher: As tourists.

Mr Levinson: As tourists. We saw this weekend get-away a lot. The whole market has changed. A lot of these people just travel within two hours, a weekend getaway. But what we are seeing is that less people are travelling. I do not know where you got these figures saying more people are doing so, because we know that less are travelling and we are getting fewer people from outside the country coming in. I have figures from the Canadian Tourism Research Institute.

With regard to Sunday shopping and tourism, as I said in my presentation, I feel the shopping experience is an integral part of the visitor experience to any area of this province. People come to visit a province and part and parcel of what they do is shopping.

I went out to dinner last night with two disc jockeys from an Ogdensburg radio station. They were telling me that Ogdensburg would not really exist if it were not for the Canadians. They thrive on the Canadian tourism—and he was shocked when I used the word, because they never think of it as tourism. The Canadians come and shop there, but that is not tourism, that is business.

In reality, having the availability of Sunday shopping here would enhance our industry. I truly believe that. It is not the final answer. We have a lot of other problems with the recession and the GST and other taxes, but we feel that Sunday shopping is one aspect.

Mr Kormos: I appreciate what you have said, and I have to tell you that I am from a community down in the Niagara Peninsula that is small enough that I consider Ottawa the big city. But I come from a city, Welland, and the accompanying town of Thorold, which I think are pretty characteristic of most of Ontario.

The problem we have down in cities like Welland and Thorold, and I suspect a whole lot of other cities, is that if in big cities, which are tourist draws, their Steinbergs and No Frills and supermarkets and other retail stores are opened on Sundays—you have a boundary and the people just over that boundary are going to feel pressured to do it, not because they necessarily want to but because of the realities, that domino impact. That reared its head during this period of time that people have been talking about, when the Sunday opening and the Sunday working were unregulated.

I believe you were here when the United Food and Commercial Workers, who represent a whole lot of retail workers, talked about their concerns. The next presentation is from the Christian Council of the Capital Area, of this area, and I suspect what they have to say is what they have been saying all along during the course of this debate about Sunday shopping. What they have to say is that a common pause day and controls on Sunday openings are important to the lives of people in communities like those where I come from, Welland and Thorold in the Niagara Peninsula, and to the lives of people in communities like Ottawa and neighbouring regions.

If you can tell me something to say to these people, to the people who represent the workers or to the churches—and churches are as important to the lives of people here in Ottawa as they are to our families in Welland and Thorold. Are these people wrong? Are they misguided? Are they simply out of step? My strong feeling is that they are not. What do you say to these people?

1100

Mr Levinson: The first thing that comes to mind is I feel that people whose day of rest for religious purposes is Sunday have every right to that. But I do not want them telling me I must rest on their day of rest if mine is not the same day as theirs. I feel quite strongly about that.

I do not celebrate the Sabbath or the holiday on a Sunday. I would rather have my own day of rest where I do not work, one that is different from that. They should not dictate to me or the other people in the province who do not want to rest on Sunday that they must do so. That is my first answer to those people.

As far as the workers and the unions, as I said before, there is a true period of adjustment. If Sunday shopping were wide open, everyone would be open and testing the markets and the waters, and people would start to get into phase—what works and what does not work, what makes economic sense. If a certain employer cannot find the workers to work on Sunday, the employer will not open on Sunday. If they are not getting the business, if people are not coming in and shopping in the store, for sure they are not going to be open on Sunday. No one is going to stay open if they are not getting any business, because their labour costs and other costs are going up.

We had eight months of unrestricted Sunday shopping, and that is a very bad time to really use as a model for what would happen because there was a lot of adjustment period going on there.

I do not know if I have answered your question. When you talked about the small communities and the borders, I was not quite understanding what point you were getting at. I do know the large cities will always create a greater draw than small communities just by virtue of the kind of stores available and the selection. There is always going to be better shopping in Toronto than in Ottawa. There is always going to be better shopping in Ottawa than in Smiths Falls and so on in terms of selection and probably even sometimes price. If you are from a border community, you must know. In May I spent a weekend in Sarnia. It was very depressing to be in Sarnia on a weekend, I will tell you.

Mr Kormos: The folks in Sarnia are not going to be happy to hear you.

Mr Mills: Very briefly before you go, I would just like to remind you of something concerning the statement that you do not want Sundays; it is not your religion. There is provision within this legislation for alternative religions.

Mr Levinson: But it does not answer the problem of people wanting to work on Sundays.

Mr Sorbara: Might I just make one request for information from the Ministry of Labour? It arises from Mr Fletcher putting on the record the famous Zellers contract which was so offensive to so many of us.

My request for information is as follows: Will the Ministry of Labour present a brief to this committee outlining all circumstances relating to the Zellers contract of 1988 requiring workers to agree in an employment contract to work on Sunday? I would like to hear the ministry's views on the relationship between that contract provision and the Human Rights Code, confirmation that the contract provision violated the Human Rights Code, the relationship of that contract provision to Bill 114 and Bill 115 and the circumstances surrounding the agreement by Zellers to withdraw that provision from the contract. Could they report to us on all matters relating thereto?

The Chair: Would you like that in writing or orally?

Mr Sorbara: I would prefer it in writing. I appreciate that the Ministry of Labour has responded to a request for information fairly quickly. We do not need it—I do not need it—in the next day or two, but the committee is going to be considering this matter for several weeks yet. If within the next week or two we could hear from the ministry, that would be fine.

The Chair: So you would like a written response prior to next Friday?

Mr Sorbara: I would like a written response, yes, hopefully within a week.

Just one other request for information that I did put before the committee last week. We have not heard back yet, so I will just remind the committee—

The Chair: There is a response to one of your questions.

Mr Sorbara: No, we have that response. It is another request for information and I would have thought we would have an answer by now.

Earlier in the hearings, Mr Mills said that this bill has nothing to do with religion, that it has only to do with a common pause day. Today he is actually mentioning the retention of section 5.

Is it the government's view that there are matters in this bill that deal directly with religion, and if so, how is that position consistent with Mr Mills's statements before this committee that this bill has absolutely nothing to do with religion and that its only purpose is to create a common pause day and to promote tourism?

The Chair: You are saying that there are some outstanding questions to which we have yet to receive a response from the Solicitor General?

Mr Sorbara: Yes. We could maybe solve it right now if Mr Mills would just tell us whether this bill has anything to do with religion or whether it does not. The inconsistency arises from different testimony that he has given before this committee on behalf of the ministry. That is confusing not only to me as a committee member, but I would imagine to the general public as well.

The Chair: Perhaps we should wait for the written response, which should be forthcoming.

CHRISTIAN COUNCIL OF THE CAPITAL AREA

The Chair: Our next witnesses are from the Christian Council of the Capital Area, Mr Peter Schonenbach, past president, and Mr Don Friesen. As you have been here for a little while, you are aware of the proceedings. We have approximately half an hour to be divided up between your presentation and the many questions I am sure the committee members will have for you. Please feel free to start when you are comfortable.

Monsignor Schonenbach: I am very pleased to be here. To introduce ourselves perhaps in a different way, my name is Monsignor Peter Schonenbach. I am the Roman Catholic representative on the Christian council. I also hold the position of past president. Don Friesen is from the Mennonite church and he holds the position of vice-president.

First of all, a few words about the Christian Council of the Capital Area. The council has its roots in the Ottawa Council of Churches, which was established in 1948. The

current Christian Council of the Capital Area began in 1971. The council's mission statement, approved in 1989, is as follows: "The Christian Council of the Capital Area is called together to demonstrate the unifying love of God in Jesus Christ, to all in the national capital area."

The member churches of the council are the Anglican Diocese of Ottawa, the Ottawa Baptist Association, the Greek Orthodox Diocese, the Ottawa Lutheran Council, the Ottawa Mennonite Council, the Ottawa Presbytery of the Presbyterian Church, the Ottawa Presbytery of the United Church of Canada, the Roman Catholic Archdiocese of Ottawa, the Salvation Army, the Society of Friends and the Women's Inter-Church Council. Our membership comprises over 500 congregations.

Some of the endeavours of the council are promotion and sponsorship of chaplaincy in hospitals and schools, establishing and maintaining a comprehensive registry of church-sponsored social works, sponsoring training programs for hospital and nursing home lay visitors, hosting the first Canadian Christian Festival held in Ottawa in 1982 and a major Symposium on Peace, Justice and Integrity of Creation in 1990.

Now, I would like to say a few words about the council and the principle of a common day of pause. For Christians, Sunday is the commemoration of the first Easter, the resurrection of the Lord Jesus Christ. However, the concept of breaking the cycle of the seven-day week by a day of pause finds its roots in the great tradition of Judaism. The sense of the Sabbath, the day of pause, is given in this paragraph from Abraham Joshua Heschel's book, *God In Search of Man, A Philosophy of Judaism*, which was published in 1955—and unfortunately, while he has many qualities, he does not use inclusive language.

"What is the sabbath? A reminder of every man's royalty; an abolition of the distinction of master and slave, rich and poor, success and failure. To celebrate the sabbath is to experience one's ultimate independence of civilization and society, of achievement and anxiety. The sabbath is an embodiment of the belief that all men are equal and that equality of men means the nobility of men.

"The sabbath is an assurance that the spirit is greater than the universe, that beyond the good is the holy. The universe was created in six days, but the climax of creation was the seventh day. Things that come into being in the six days are good, but the seventh day is holy. The sabbath is holiness in time.

"What is the sabbath? The presence of eternity, a moment of majesty, the radiance of joy. The soul is enhanced, time is a delight, and inwardness a supreme reward. Man does not stand alone, he lives in the presence of the day."

In 1986, the council approved and publicized the following motion: "The CCCA deplores the growing commercialization of Sunday, believing that Sunday needs to continue to be set apart for people, as individuals, families, and communities. We maintain that there continues to be a need for a common day of rest, to allow people to come together for religious observances, as well as to enjoy opportunities for rest, recreation and leisure activities. We oppose any relaxation of the present Retail Business Holidays

Act, and encourage the more active enforcement of its requirements."

In 1988, our council appeared before your committee to voice concern about Bill 113, an act to amend the Retail Business Holidays Act. The point made at that time was that the province should be the one to regulate Sunday shopping.

1110

The council is a member of the Coalition Against Open Sunday Shopping and took part in a major way in the CAOSS in 1990. The council was one of the organizers of the successful rally held here at the Ottawa Civic Centre on September 4, 1990.

The Christian Council of the Capital Area is happy to support legislation that maintains the common pause day principle. This principle is the core of the suggested amendment and should be protected as such.

A few particular comments about the proposed legislation: A crucial matter is what is said under clause 4(10)(a) dealing with the tourism criteria to be used in formulating the regulations. The council urges that sufficient stringency be built into the regulations so that the tourism angle does not become a loophole leading to open Sunday shopping.

With regard to the protection of employees, under section 39e, the council urges that comprehensive publicity be given to this matter so that all concerned are knowledgeable of their rights and responsibilities.

The council is happy that there is the prospect of legislative support for a common day of pause, and also that specific rights are to be granted to employees who do not wish to work on Sunday. We trust that this legislation will be enacted, as well as regulations strongly influenced by the principle of a common day of pause.

My concluding comments were the same—or the same in our 1988 brief. "Time is, in the minds of many, money. We do not have to be prophets to say that there will be constant pressure by economic forces to organize time in the most profitable way. The computer age is oblivious to night and day, to joy and sorrow, to tradition and to the deep needs of humanity. The question is, who is in charge? Saying emphatically that Sunday belongs to the people is the first step to ensure that the forces of technology and of commerce, of today and of the next century, are not our masters, but our servants."

Mr Daigeler: Thank you, Monsignor Schonenbach and Mr Friesen for appearing before us and, above all, for appearing before us as a council. I think it is the only opportunity we have during these hearings that the churches are actually presenting a joint brief, and you are to be congratulated on that.

I also wish to congratulate you for putting forward your views on the importance of a day of rest in a non-sectarian fashion. I kind of share your vision of that concept, but the problem I see and the problem I am experiencing myself is if the people themselves do not share that understanding of a common day of rest, or that vision, the same need for the common day of rest, if, in fact, they are saying, as they have been saying over our hearings, "We need that day to work in order to put the bread on the tables of our family," does the government have the right to enforce this

particular version of Sunday, or the Sabbath, or of a common pause day? What do you say to these people?

Monsignor Schonenbach: I know that you would share what I would understand as your government also operating with visions. You are not just operating by the seat of your pants, there is a vision that is needed. Economic problems in this province are extremely real, and I of course know this, and as some of you know, I have also been very much involved with the Social Planning Council of Ottawa-Carleton. We have many social problems but should we lose some of the great vision that we have about what society should be simply in order to solve those problems?

There is no doubt in my mind that we are not going to solve the social problems of this province by Sunday shopping. It might be a Band-Aid solution, but I think that we have all known, and in fact your government has also known, that social legislation and helping in social matters and economic matters require an overall renewal, not a little bit of a patchwork here. Sunday shopping is certainly not the salvation of our economics but, on the other hand, a day of pause—and this is why I think it is important that you use the day of pause, because we are a multicultural society and we have to move in great respect for various traditions, so using the concept of the common day of pause is in fact building a legislation that will work in multicultural Ontario, but I think we need a vision and I think that is what is important.

Mr Sorbara: Monsignor, thank you for a very eloquent and forceful presentation. I could not agree with you more, that the consideration of the Sunday shopping issue is not going even to begin to address the real social, cultural, economic and human issues that confront us. In fact, probably this is the last thing that the government really should be doing at this point. It should be addressing itself to more urgent issues.

But the government has decided in its wisdom, or lack thereof, to present a bill. I guess the question I want to ask you is whether we need the state to resolve this issue. Your brief presented, I think, as clearly as can be, the truly human root of our need for a pause day, for a Sabbath, and every great religious tradition identifies a Sabbath. In fact, the Jewish religion has been able to maintain a Sabbath for its people, notwithstanding no support from the state whatever, and through hundreds of years of European history and North American history, direct resistance to that. Notwithstanding, that faith has been able to maintain among its people a holy Sabbath.

I grew up in the Christian tradition. When I was a kid, if I did not serve a mass on Sunday, something was wrong. I have resolved those issues in my own life and my family has been able to incorporate some degree of rest in a very fast-paced society. So again, my question to you is, do we need the state to do this? Could the state not just recede and allow other forces within society to achieve those objectives?

Monsignor Schonenbach: I think one has to look at strong definitions. I doubt very much if you folks would agree or would want your government to be a sort of top

management committee. You are more than just a management committee. You are more than an economic group that helps the Ontario market work. Ontario is bigger than the market. It is people.

Mr Sorbara: Yes, sure, no doubt, no problem with that.

Monsignor Schonenbach: This is why the government sometimes does have to enter into areas. You probably, with your strength and your leadership and who you are, are able in a way to make sure that you have a defended day of pause, but there are many poor folk who, without a strong legislative situation, will get pulled into the economic whirlpool. This is what good legislation is all about, building a society that is good for the people. It responds to the way the people feel. We are talking to you about the feelings percolating in over 500 congregations in this capital area, that feel very strongly that legislation is required, and legislation that is intelligent. I think we do need provisions for these various situations, but still, the principle of a day of pause, I think, is something that the government definitely has a right to defend.

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Mr Jordan: Thank you, Monsignor, for your excellent presentation on the overall Christian view to this legislation. I have a twofold question. First of all, how do you separate the retail worker from a worker in essential services, such as firemen, hospitals and so on?

Monsignor Schonenbach: I suppose I can understand the person in the essential services because quite frankly, I work every Sunday. Some of us, by the nature of our work, are there to serve the people, just as a good politician, in a way, is not a nine-to-five person. If there is some real need to do something, the weekend is not going to break it. We are talking about the general fabric that we are building in this province. It is made up of good social legislation and it is made up of vision. We would suggest that a day of pause is part of that fabric that will make us a solid, progressive and good province.

Mr Jordan: But Monsignor, the fact that you do have to work on Sunday does not deter from your style of life in that you—

Monsignor Schonenbach: I will tell you one thing, however. I was actually a public servant for 10 years of my life and the hardest thing I had to get used to when I became a priest was not having a weekend. Sure, you have a day off during the week; it is not the same thing. But the interesting thing is, with the weekend, back in the days when I was not a priest, you know you share in something that everybody is together on.

Mr Jordan: I have a family and I have attended church at 11 o'clock, I have taken my family for lunch and I would like to drive in to Ottawa now to shop at the Bay or some other centre. Why should I be deprived of that family outing?

Monsignor Schonenbach: You have to look at what will also be good for the overall province. Will the fact of unrestricted shopping actually enhance the whole situation? When we ran the Coalition Against Open Sunday Shopping campaign in 1990, what we tried to get into the

minds of people was not so much, "Do you want to shop on Sunday?" as "Do you want to work on Sunday?" That is the question. Shopping on Sunday—sure, in some cases I myself would feel, "Hey, it's a great idea to go and pick up some stuff on Sunday." But do I really want to have a province where, generally speaking, there is no common day of pause? It is just one great big economic reality. We feel from our gut that this is not right. There should be a common day of pause.

Mr Jordan: But there could be a mix of the common day of pause and a family outing that involved retail outlets.

Monsignor Schonenbach: The point being, of course, we have always said that an intelligent look at a day of pause will enable the mom-and-pop stores to keep open and things like this. But what we do not feel is that Sunday should be simply business as usual because in that case, while somebody will enjoy what you are talking about, a lot of people will not be able to enjoy it because they have to work.

Mr Jordan: Essential services?

Monsignor Schonenbach: Yes, but the essential services are a relatively small portion of the overall picture.

Mr Carr: I had a question relating to those workers as well and I think you have talked about some of the essential services. But what would you say to some of the people who have to work who are in nonessential services? Somebody who, for example, works at a baseball stadium where hot dogs are given out, or movie theatres and so on? Would you like to see us go back to what happened in the past where movie theatres were closed and baseball games were nonexistent? Would you like to see us, in the true sense, go back?

Monsignor Schonenbach: No, I think actually we have gradually grown into something and in fact our Christian council has grown. I, of course, come from a tradition where—some of you may perhaps not know this, but in 1950 a Catholic priest of Ottawa spent the night in jail because the parish soccer club was playing on Sunday and he got stuck in jail. I think there is a sense that it is part of the recreation situation. What we are really talking about is we do not want the big shopping centres and everything just to percolate so that the people who would be going to these games and so on cannot go because they have to work. There is an art of the possible and you have to work in this, but keeping that vision of a common day of pause, I think, is possible. Nobody said that your work is going to be easy.

Mr Daigeler: I think you are right.

Mr Carr: Neither is yours.

Mr Morrow: Thank you very much, Monsignor Schonenbach, for taking the time to come here and speak with us today and help us to, hopefully, set up some good guidelines when we go back into the House September 23. Your brief was really good, especially in your conclusion, when you say Sunday belongs to the people. What a great statement. You talk about your congregation being 500-strong. How many people is that exactly?

Monsignor Schonenbach: You have parishes like my own, where I have 1,500 families. You have all the Catholic parishes, the Anglican parishes, multiply that with a realistic

figure—I would say 800 would be a realistic figure as a multiplier, and that would keep your smaller congregations and balance it off with the bigger ones. It is a lot of people.

Mr Morrow: That is quite a number.

Mr Kormos: Monsignor, very briefly, the Heschel comment about Sabbath in this submission, and appreciating that we are reminded, not inappropriately, frequently that our society is no longer solely a Christian society, that we have people living in our communities of numerous faiths, many of them not Christian. Again, your contact with non-Christians is as complete as any of ours, perhaps all the more so because of your involvement in the religious community and your leadership in the Christian community. Is there any faith represented among Canadians or Ontarians, Christian or non-Christian, to which the principle, the perspective, contained in the Heschel analysis of Sabbath—is there any faith to which it is not applicable?

Monsignor Schonenbach: I would say that the Heschel comment is something that all the major religions can buy into, making the necessary linkages and so on. Obviously between my Jewish brothers and sisters, the common day is slightly different. But the concept of the common day, as Heschel puts it, belongs to everybody.

Mr Kormos: In reference to your final and closing paragraph, I agree, it is well enough written to have repeated from 1988 to the present. Does it bother you—Mr Sorbara mentioned, and probably shares this with a whole lot of other parents—the competition that the shopping plaza has for the National Art Gallery? Is that bothersome?

Monsignor Schonenbach: You probably today appreciate the museum a little bit better than you did when you were a teenager.

Mr Kormos: They did not have shopping plazas when I was a teenager, Monsignor.

Monsignor Schonenbach: It is all part of growing up. I think that, like a lot of good things, you sometimes have to con kids into doing certain things that you know fundamentally they will like and appreciate. It is harder today, yes.

Mr Kormos: But it seems to me we have people and institutions out there that are promoting shopping as some sort of leisure activity, when in fact we know that their motive in promoting shopping is not to enhance the lives of those people who travel through the stores, but it is to separate them from their money.

Monsignor Schonenbach: I could not have said it any better.

Mr Kormos: I am not suggesting that the money lenders are in the temple again, but does that concern you as a leader—

Monsignor Schonenbach: This is what basically our council said in 1986, when we said we deplored a growing commercialization of Sunday. Yes, we deplore it. We know that some of it will always be there, but yes.

The Chair: Mr Mills has some verification point.

Mr Mills: I would like to comment about something Mr Sorbara said about something I may or may not have said about religion and as it relates to the common pause day.

I would just like to go on the record to say that the common pause day is not connected to religion. It is a pause day to protect the retail workers, but nevertheless it is secular. The reason for this protection under section 5 is that it provides for religious accommodation, and was introduced to ensure that the legislation does not contravene the provisions of the Canadian Charter of Rights and Freedoms. It is my understanding that a written clarification of this is forthcoming from our legal representative, who is not here this week. Thank you.

The Chair: Thank you, Mr Mills. Thank you very much, Monsignor.

The presentation from the Retail Wholesale and Department Store Union will be in written and not in oral form. We therefore have a break until 1:30, at which time we will be hearing from a representative from the Cambridge Food Mart.

The committee recessed at 1134.

AFTERNOON SITTING

The committee resumed at 1334.

The Chair: I call the committee to order again.

Mr Daigeler: Mr Chairman, before we go with the presenter, last week or 10 days ago I had requested from research some information on the recent poll results on the Sunday shopping issue. This morning I have received the report but I have not had a chance to look at it. I think the information in here would be of interest to the whole committee, so I will table this with you, perhaps to be given to the whole committee, if that is agreeable with you.

The Chair: Thank you, Mr Daigeler.

AFIF AYOUB

The Chair: We are hearing, I believe, this afternoon, first from Mr Afif Ayoub of the Cambridge Food Mart. Mr Ayoub, we have about half an hour, and that time can be divided between your presentation and the many questions the committee members will have for you. If you wish to respond to questions, which I know the members have for you, please leave some time. Please start as soon as you feel comfortable, sir.

Mr Ayoub: I must thank this committee for giving me the opportunity to speak out about Sunday shopping and its effect on small business. Also, I must thank Evelyn Gigantes's office for putting my name in to address the committee.

Three years ago I bought a small building here in Ottawa. Included in the building was the small business that I presently run with my wife, as well as with some help from my 14-year-old son. Through working long hours, approximately 12 hours per day, we have been able to pay our mortgage, pay our taxes on time, and at the same time support ourselves and our four children.

Since opening, our best business day in terms of sales has been Sunday. In addition, from my past experience in which I worked at Joe's Food Mart on Southvale, and Pronto's store on Greenbank, our highest sales day used to be Sunday. But during the nine-month period during which the big retail stores were open, our sales started to drop considerably.

Then came the ruling of the Supreme Court of Ontario on the validity of the bylaw banning Sunday shopping. This decision by the Supreme Court gave us a breather and our sales on Sunday picked up again by anywhere between 20% and 25%, even though our sales in general are down due to the effects of the recession.

As a small business, we find it very hard to compete against the large chain stores, because we do not have the buying power and we do not receive the percentage rebate that they do, coupled with the fact that major suppliers do not have much interest in small, independent businesses like ours. I would single out in particular the Ontario Lottery Corp and the soft drink companies, who only pass on to us limited advantages. I must also mention that though our price per item might be higher than the large chain stores, our margin of percentage profit is very close.

Some people might think small, independent businesses do not create jobs. On the contrary, small businesses on average create more jobs than the big chain stores, because each one of these small businesses like ours needs at least three to four people to run it, especially due to the extended hours. This is regardless of the amount of sales that a particular store generates. When you calculate that there are at least 2,000 of these stores in the Ottawa area, and you multiply this number by three or four, you have close to 8,000 working people. Most of these people are self-employed, and are a big part of the taxpaying force.

As well, small businesses, due to their nature, are not located in tourist zones. These businesses provide convenience to many families in their neighbourhoods, especially those who do not have means of transportation and those who might need something at short notice. In our case, lots of elderly people come to our store who cannot go too far. I also have lots of people who come in wheelchairs, because we are near St Vincent Hospital.

For the reasons I have mentioned above, I believe it is correct and justified for the government of Ontario to keep the law concerning the ban on Sunday shopping in effect, as it was ruled valid by the Supreme Court of Ontario. In order for small businesses to survive, they need some protection and a break here and there, and that is one area where the government can help by keeping the ban on Sunday shopping. This would give small businesses a breather, where they can pick up a little extra business that they badly need. We prefer to have Sundays off, but given the choice between survival and a day off, I would rather work.

Small businesses over the years have become a tradition where a family runs and owns a business which becomes known and is passed from one generation to another. In addition, it keeps many young children like mine close to their families, helping in the small business, thus creating a good family relationship.

To do away with small businesses means disaster for thousands of families, and leaves many of these young kids running the streets, selling drugs and doing unwanted things. So once again, I call on the government of Ontario to help and protect the small, independent business by keeping the ban on Sunday shopping, giving us a little break that we badly need in order to survive and keep us out of the long list of bankruptcies.

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Mr Daigeler: Thank you very much, Mr Ayoub, for coming before us and making your views known. You say in your brief that you prefer to have Sundays off, but that given the choice between survival and a day off, you would rather work. In the hearings we have had so far, there were actually quite a few retailers who made the same argument. They also said that because of the recession and people going to the United States, they are having a very hard time to make ends meet and need that day, meaning Sunday, to just pay the bills. Essentially they are

arguing the same way you are. Why should you be allowed to open, but not these other ones?

Mr Ayoub: Other ones like?

Mr Daigeler: The other retailers like, say, a shoe store. We had a shoe store owner from Toronto come before us, and other small retailers.

Mr Ayoub: How big are they?

Mr Daigeler: What is considered the small retailer.

Mr Ayoub: If they can open, they could—

Mr Daigeler: So you would have no objections to that?

Mr Ayoub: No objection for the small businesses, because on Sundays we only pick up what is left over.

Mr Daigeler: I see, so your objection is to the chains, to the large stores, to the conglomerates, as it were, being open. You would have no objection if other small retailers—

Mr Ayoub: Where it is hard for us to compete, as I mentioned, is that we do not have the buying power they do to buy in large quantities where we can save.

Mr Daigeler: I understand that. It would, however, probably be very difficult, even on a charter basis, to say the small retailers can be open but not the large food stores. That would be very difficult to argue.

Mr Ayoub: They used to be closed. They only opened for a short, nine-month period. The small businesses have always been open on Sundays, so they could manage the way they managed before, because they only opened for the eight- or nine-month period last year, and they used to close before that and they managed to operate.

Mr Carr: I want to thank you for coming down and for taking some time away. It is also nice to see there are still people like yourself who are out there trying to run businesses. I want to thank you, and I think everyone on the committee would feel that way about it.

My question relates to the availability of getting people to work. If in your area, because of the tourist exemption or whatever, your area decides to open and you stay open, is it a financial matter of trying to get somebody you do not have to pay? If the family works, you do not have to pay anybody a salary. What is your feeling? Would you be able to get somebody to work, or would that cost you a lot of money?

Mr Ayoub: It would cost lots of money, because I do not think a small business like ours could afford to hire people. That is why it is mostly a family business, where you can put lots of hours in and you do not get full payment for working. Otherwise, if you have to hire people and give them long hours, we could not afford it, no.

Mr Carr: You have had a chance to look at a little bit of the bill. What about the tourist exemption, which means that really it is up to the municipalities? They are so broad that you can interpret it in any way, and in your area I guess you will probably end up going before the various municipalities trying to argue your case there as well. Do you like the existing tourist exemption? Do you think there should be certain areas with tourism, or do you see that opening up an area where that means you now have to open up to be able to compete?

Mr Ayoub: I do not know. We are not located in a tourist zone. We are off the main street, so I do not know how much it affects the people who are located in tourist zones.

Mr Carr: Say, for example, in your neighbourhood, and I am sorry I do not know the particulars, somebody is open because of the tourist exemption and you are not. Would that cost you some business as well? What is going to happen now is that the municipality is going to have to draw the line, and that is going to be difficult to do because it may take business away. Do you see yourself maybe losing some business because of that?

Mr Ayoub: That might take away a little business, because where we are located, we mostly depend on the neighbourhood. I do not know how much it will affect us. It might take away a little, not much.

Mr Carr: One of the other concerns that has been out there has been for the family situation. Forgive me, but I did not hear whether you opened during that period when it was unregulated, or how you coped during that period. I just wonder if you could comment on what happened during that period when there was some unregulation. When we were unregulated for that period of time when anybody could open up, did a lot of stores in your area open up? Did you stay closed? Did you open up?

Mr Ayoub: Yes, all the stores were open.

Mr Carr: So you opened then as well?

Mr Ayoub: Yes, we were open. We actually opened most every day.

Mr Carr: That is when it put the strain on the family life, being open like that.

Mr Ayoub: That is right.

Mr Fletcher: You say you are a small family business. How big is your store in square feet?

Mr Ayoub: It is about 15 by 50, lengthwise. It is not very big.

Mr Fletcher: That is pretty good. The people who are working in your store are mostly family?

Mr Ayoub: Yes, my wife and my little boy. He helps a little bit. Mostly family.

Mr Fletcher: So your little boy always wants to work on Sunday, or does he want to get out and go—

Mr Ayoub: I do not really pressure him to work, but he likes to be there.

Mr Fletcher: That is great. Thank you very much.

Mr Klopp: One of the things I really like about this bill is that it does allow small business people, retailers like yourself, and especially in your particular industry, to get a chance to get ahead. I definitely always thought that getting rid of Sunday shopping or the common pause day was really just big companies wanting not just to be happy making money, but making a lot more money and putting small businessmen out of work. I know our party has always supported small business, and we are taking the heat for this now. I appreciate your coming out today. How long have you been in business? About 10 years, you said?

Mr Ayoub: For a long time. I was in a small business before. I had a partner and then I sold and then I worked for somebody. Then lately I bought my own.

Mr Klopp: But as a small business person, because you do not hire people for Sundays, it is your decision to work.

Mr Ayoub: No, we do not hire. Sometimes we might get some friend for a little help if we are going away some place.

1350

Mr Kormos: Good to see you here today. It is nice to be here talking with you. You are talking about what people call convenience stores.

Mr Ayoub: That is correct.

Mr Kormos: We are talking about what people would call mom-and-pop operations. I am familiar, because my grandparents, when they came here from eastern Europe, made jobs for themselves by operating a mom-and-pop store. I remember that as a kid, and the sort of hard work they did. But the people I am talking to now, people like you, not just here in Ottawa now but down in the Niagara Peninsula where I am from and in other parts of the province, are telling me that they are scared, that if there is wide-open Sunday shopping, there is just no way you can compete with the big megachains that have big bucks behind them and a lot of power. We are talking about mom-and-pop stores that, from where I live, put a lot of kids through university. It created a lot of new lives for a lot of new Canadians who worked hard. People like you are afraid that this opportunity to make a livelihood is going to be taken away because of wide-open Sunday shopping.

I think what you are saying has validity, has truth, not just for you here in the Ottawa area, but for small retailers, small business people like you and your family all over this province. I think you have good reason to be scared, because if you have wide-open Sunday shopping, my friend, your store is going to be hard pressed to stay in business.

Mr Ayoub: For the nine-month period, our business here went down considerably.

Mr Kormos: I think the government has a responsibility to protect hardworking people like you.

Mr Ayoub: Even on the first Sunday they closed, there was a big difference.

Mr Kormos: Yes, incredible.

Mr Ayoub: So we noticed the difference in terms of sales.

Mr Kormos: I hear you. I think we all do. Your point is well made, my friend. God bless.

The Chair: Thank you very much, Mr Ayoub, for your hard work on that presentation.

Mr Sorbara: If I might just make another request for information from either the Ministry of the Solicitor General or the Ministry of Labour, or maybe the Ministry of Industry, Trade and Technology—I am not sure which is the appropriate ministry to answer—it arises in part out of the submission by Mr Ayoub and his problems in competing in an atmosphere where any store that chose to stay open would be able to stay open. As I understand the thrust

of his submission, he says, "Our best day of business in terms of sales has been Sunday." As I understand his submission, he would like to be able to have that competitive advantage for Sunday and argues in his brief that the large chain stores should be required to close under the government law. Again, as I understand the questioning from the government members, they support this notion of a competitive advantage for these small convenience stores. None of that was contained in the government's—

The Chair: Are you asking a specific question?

Mr Sorbara: Yes, I am. The notion that this bill will give a needed competitive advantage to the small grocer or the small store was contained in the statement made by the Solicitor General, as he then was at that time, or the parliamentary assistant to the Solicitor General. Could we have a statement from the Ministry of the Solicitor General or any other government ministry as to whether or not part of the purpose of this bill is to create a competitive advantage for the small retailer and whether or not the government has taken into consideration the competitive advantages of some businesses as a result of the bill? We did not hear any of that from the Solicitor General when he introduced the bill. His argument was for a common pause day and for the protection of workers. Certainly there is a competitive advantage for the very small retailer if he is allowed to stay open in an unrestricted way. I would like whatever research the government has on that matter and a statement as to whether or not the government is in agreement with the government members of this committee that it is important to give that competitive advantage to the small retailer. If we could have that within a week, that would be very good.

Mr Mills: Your point is well taken, and I just reiterate what I have said many times, that we are here to listen and we are listening. The regulations are in draft form and we will take everything under consideration and take it back and look into it.

Mr Sorbara: Sorry, sir, does that mean the government does not want to give a written response to that request for information?

Mr Kormos: Perhaps in fairness Mr Sorbara should state for the purpose of the committee whether or not he supports these very sorts of small business people like this gentleman and his family, and their right to continue operating their little mom-and-pop operations. I am afraid I read between the lines, and what he just said suggests to me that maybe he is not supportive of these people, and by gosh, they should know it if he is not.

Mr Sorbara: That is a good question raised by my friend the member for Welland-Thorold. If he wants a simple and straightforward answer, I am very supportive of the government doing everything it possibly can to support small businesses like the Cambridge Food Mart because that has been the real generator of new jobs in Ontario. Every single authority will support me in that submission, that this is where new economic opportunities and new jobs are created in this province.

My problem, I tell my friend from Welland-Thorold, is that the government has not said that this bill is part of its

strategy to support small businesses of this type. There is nothing wrong with that. Maybe that is a good economic objective. Maybe it is good policy to give one day over exclusively to small convenience stores and very small retailers. I just want to know if the government has that as one of its purposes for this bill, and if it does, just let us know about it, and if it has any research on the matter, let the government provide us with that research so we can expand the nature of our questioning.

What we have heard from the government thus far is that all businesses should be closed except for those which maintain or promote tourism, and second, that the government's policy objective is to create a common pause day. I do not think the bill does either of those things, but that is my view. If the government has a different strategy, as indicated by the questioning of the New Democratic Party members, the government could just say that. There is nothing wrong with that objective. It is very laudable. We would like to see the government do more to help small businesses. If that is part of the thrust of this bill, let's hear it and let's get the debate out in the open. That would be a good objective.

Mr Kormos: Quite clearly, that is why I support the legislation. Why is it that you oppose it? I am sorry, Mr Chairman, I did not mean to speak out of turn.

Mr Morrow: Correct me, Mr Sorbara, if I am right or wrong, but are we not here trying to get guidelines from the public to draft legislation that we can go back into the House with, and do we not do that during clause-by-clause?

The Chair: I do not think we need go any further on this particular matter.

Mr Sorbara: We have a couple of more minutes before our next presenter. My friend has asked me a question.

The Chair: We have people waiting, and I believe the simple answer to your question is, yes, your questions will be forwarded to the Solicitor General.

1400

COALITION AGAINST OPEN SUNDAY SHOPPING—EASTERN ONTARIO

The Chair: We now have before us the Coalition Against Open Sunday Shopping in Ottawa, with its chairperson, Elaine Vacher. Ms Vacher, would you be generous enough to introduce your colleagues.

Ms Vacher: Good afternoon. I am Elaine Vacher, chairperson of CAOSS—Eastern Ontario. Gerry Lepage is executive director of Bank Street Promenade business improvement area and a member of CAOSS. Arden Brooks is one of the owners of a Canadian Tire store in Ottawa and also is a member of CAOSS—Eastern Ontario.

The Chair: You have approximately half an hour, which can be divided up however you wish, typically about half the time pure presentation and half for questions from the committee members, who I am sure will have many for you. Please feel free to commence.

Ms Vacher: In 1975, the government of Ontario enacted the Retail Business Holidays Act, which among other things permitted essential services and the entertainment

industry, and permitted municipalities the option of designating tourist areas to open on Sundays and prohibited other retailers from doing so.

Mr Rae in his election platform stated that he would entrench in law the principle that holidays should be maintained as a common pause day and would eliminate the municipal option enacted by the previous Liberal government. The proposed amendments do not do justice to the clear promise made by Mr Rae and other NDP spokespersons before, during and after the election campaign.

We are deeply disappointed in the government's failure to introduce amendments that would achieve what you fought for during the debate on Bill 113 and promised subsequently.

The original Retail Business Holidays Act worked satisfactorily for the public until comparatively recently, when in order to gain competitive advantage oversized general stores masquerading under the banner of pharmacies took advantage of that privilege to remain open.

Faced with this situation, other stores, including the major food supermarkets, felt threatened to the point where they considered it necessary to open on Sunday and to break the law as well.

Subsequent to this, the government of Ontario washed its hands of responsibility in this matter by passing the amending act and attempting to push responsibility into the hands of the municipalities of Ontario.

Since that time, the situation developed to the point where most stores were open every Sunday. At this point, any competitive advantage gained by the early lawbreakers was lost, and the lack of regulation caused many stores to open on Sundays to maintain their market share, which ruined the common pause day for many retail workers and independent retailers in this province.

The government of Ontario must accept that it cannot protect the retail worker from refusing to work on Sundays. The government must also accept that it cannot protect the retailer from greedy landlords who want their malls and shopping centres opened on Sundays.

What is required to solve the situation? The government must amend the Retail Business Holidays Act and tighten up the loopholes. This act has been tested in the courts and judged to be fair, equitable and constitutional.

The government must remove the loophole that permitted pseudo-pharmacies to precipitate the problem in the first place. Pharmacies should be limited to less than 5,000 square feet of selling space and should have no more than a total of four persons on duty including the pharmacist.

We are now witnessing in this area another kind of retailer who has developed a technique to circumvent the act. The club stores and other similar outlets opening up in Ontario are retail corporations operating for profit. The fact that a person has to buy a membership to make purchases in these establishments does not mean that the proceeds from sales benefit the members. The proceeds benefit the corporation. These clubs are retail stores and must be subject to the guidelines of the act. Remove the loophole that permits this kind of retailer to operate on Sundays.

The government must retain control and responsibility for the act at the provincial level and remove the municipal option.

The government must reject the request to open up border cities using the tourist exemption. The problem of cross-border shopping is not related to the Sunday shopping issue and will only lead to a domino-type opening on Sundays of all the municipalities and cities of the province one by one. The tourist exemption should not be granted for purely commercial reasons.

The government must enact meaningful penalties for those who break the law. The penalties we are suggesting are; for a first offence, \$500; for a second offence, \$2,000; and for a third offence it should be the gross sales for that day.

The government must enforce the law vigorously and prosecute the lawbreakers. In this regard we suggest a provincial licence to every establishment that can legally open on Sundays. This licence must be posted in the establishment. This would make enforcement of the law by police forces very simple. If there is no licence posted, you are fined. We feel this would work in the same way as a liquor licence.

The government of Ontario is herewith petitioned to amend the Retail Business Holiday Act and to retain Sunday as a common pause day, except for essential services as legislated in the act, so that tens of thousands of people working in the retail sector can enjoy the same quality of life as those involved in other professions.

The Coalition Against Open Sunday Shopping is a voluntary organization bringing together thousands of independent retailers as well as retail workers who subscribe to the following principles: to maintain a standard of professionalism in the retail industry; to protect the quality of life of those people who physically work in the retail outlets; to create an understanding that the retail sector requires discipline from the community; and to operate retail stores efficiently in order to provide the clientele with professional service in a clean, friendly and organized manner.

If we oppose the extension of shopping hours, we are accused of being old-fashioned and not progressive. People must appreciate that we who physically work in the stores, not in the head offices of the chains, want a quality of life also.

Mr Sorbara: Thank you, Ms Vacher, for your presentation. A storekeeper in my riding came to see me about two and a half months ago. He was anxious for the government to simply get out of the business of trying to pick the winners and losers in the Sunday shopping debate. He put it this way, "This business of trying to close me down on Sunday is like the government coming into my home and telling me to get my feet off the couch." He felt that if he had customers who wanted to shop in his store on Sunday and he was willing to open his store on Sunday, he should be able to do so.

I understand CAOSS's position with respect to Sunday shopping, that you did not like the previous government's Bill 113 and that you do not like this bill, but I am not quite sure what stores you think ought to have the right to stay open on Sunday.

Mr Brooks: In reply to that, as a retailer in a fairly large store I am very concerned about family life, of course, and I am also concerned about profits. I feel there has to be government legislation and I feel this has to come from Toronto. If all stores are allowed to stay open whenever they wish, whenever the customer demands, whether it be 24-hour shopping, seven days a week or whatever, everybody is going to be the loser.

Family life is going to fall apart and profits are going to dwindle. There are only so many dollars to be spent in retail whether you spend them in six days or seven days. We are all going to be losers if we are allowed to stay open seven days a week and holidays.

Mr Sorbara: You run a Canadian Tire store?

Mr Brooks: That is correct.

Mr Sorbara: The Canadian Tire store in my area stays open every night of the week until 9:30. I think not having parents home from late afternoon until 9:30—or 10 o'clock by the time the store is cleaned and closed up—has a significant impact on family life. Should we not then be requiring that Canadian Tire stores close at 6 o'clock every day?

Mr Brooks: Just because some municipalities allow stores to stay open late at night, I do not think it is going to help any if we are open an extra day over and above that.

Mr Sorbara: No, the point I am trying to make is—

Mr Brooks: I think it is bad enough if we are open every night. That is one case and I think it is serious enough as far as family life is concerned.

Mr Sorbara: What about a storekeeper who says: "I am going to close my store on Monday and I am not going to open every night until 9:30. I am going to close every day at 5 o'clock, but I would like to stay open on Sunday afternoon because that is when my customers really want to come into my store"? Should that storekeeper not be allowed to do that?

Mr Lepage: Maybe I could voice a comment. My association represents 500 businesses, big and small. I think we have to look at the way business has been conducted in the past, the last decade or the last 20 years. I think you came up with a very astute observation about competitive advantage. That is really what this boils down to.

We have seen the proliferation of cross-border shopping. Where was this issue four years ago? Almost non-existent. It has only been since the proliferation of cross-border shopping, which many people say has been a sort of tax revolt in this country, that we have seen such hard pressure, usually by the multinationals, to inaugurate a law that would essentially give them a greater competitive advantage.

What is the enticement for an entrepreneur to enter the marketplace now? When we are looking at unions negotiating 35-hour work weeks, and we are asking a retailer who cannot afford to hire any more people to work 60 or 70 hours a week, and to ask his own children to work for him, where is the incentive? To simply maintain the same subsistence level of living that they had previously? It is absolutely not equitable. That is what we have to look at.

If you look at the multinationals, naturally they are pressing for this. They have the economies of scale and they have the dollars to invest in a greater labour force, but

where is the advantage for small business? What are we asking small business to do?

The entire economy of this country has been built on small business. Now it seems, with this type of legislation, with this type of looseness, we are saying: "Thank you very much for your contribution for the last 150 years. It was great, but now we would like to reconfigure the way in which business is going to be done. We would like to give the competitive advantage clearly and distinctly to big business." That simply is not equitable.

What are we talking about here? Are we talking about holiday openings? Are we talking about Sunday openings? Really those are secondary or academic. What we are really talking about is competitive advantage in the marketplace. And why? Obviously what we are trying to do is resolve something within ourselves when we have missed the boat with regard to retaining our own customers.

Do you honestly believe that simply staying open on Sunday, when consumers are price-sensitive, is going to make people shop at those stores? It has been proved. It is price-sensitivity in the marketplace, and that has to do with higher costs with regard to transportation, higher costs with regard to taxes. That has little to do with keeping your doors open. What that will do, by attrition, is run down small business. We will see the diminishment of small business and a lethargic attitude permeate the marketplace in so far as small business is concerned.

Indeed, if the purpose of this government is to give the advantage to big business and to multinationals, then most definitely you are setting the correct course. If the purpose and the intent of this government is to uphold some type of moral obligation, some type of historical and ethical obligation in regard to small businesses and their contribution to our economy and our lifestyle, and to provide a reciprocal agreement that is equitable for what they have given us, we should think: "Let's not abandon the ship in their regard. Let's give something back to them. Let's tighten up these laws and make that competitive advantage a little bit more of an even playing field." That is really what it boils down to.

1410

Mr Sorbara: To respond to that in part, our problem is that we have, during the course of these hearings, heard from many small businesses and many chambers of commerce who have pleaded with us to allow the marketplace and individual businesses to make the decision whether they are going to open and when.

You said this is driven by large multinationals. In the Thunder Bay Chamber of Commerce survey it was the large retailers who were opposed to Sunday shopping, who preferred to stay closed, and it was the smaller retailers who wanted to stay open. We have heard from other businesses that they have a work force that is ready and willing to work, that is anxious to work, and that they have a market of customers who find it most convenient to come with their families to do their shopping on Sunday. What I am hearing from you, frankly, is not consistent with the kinds of sentiments that we have heard in other places during these hearings.

I have one particular concern about what you describe as "oversized general stores masquerading under the banner of pharmacies." Individual pharmacy owners tell me that in drugstore retailing, the nature of the business is now to have very large stores. In fact, the 7,500-square-foot cutoff was a bow to Shoppers Drug Mart, whereas if I run a store that is 8,000 square feet and I am independent, I am not allowed to stay open.

I do not think you are acknowledging the changes in the marketplace. One of the strongest advocates of CAOSS in the last debate was the owner of Idomo in Toronto. He runs a very modern, very large furniture store. The historic model was a very small furniture store. He did not want to open on Sunday, but he also wanted all the other stores to remain closed on Sunday. Is that fair? If we are really talking about fairness and morality, is it not the best thing to stop trying to pick the winners and the losers and simply let people's individual preferences to open or not open determine who should be open?

Mr Lepage: Perhaps I can just comment on that. Some people when they play golf have handicaps. Is that fair?

Mr Sorbara: Yes.

Mr Lepage: What we are talking about is, obviously if you have somebody who has a competitive advantage over somebody else, fair is an extremely relative term and I am sure you can understand that.

In so far as letting a person decide to open up is concerned, obviously one has to question, where is the peer group pressure there? Where are the market pressures that are exerting themselves? Let us say you have two groceriatype stores or two confectioneries, can you in all conscience, knowing your competitor is open on Sunday, relax at home, watch a Sunday movie, have a good time with your family, when in the back of your mind you are thinking, "That guy is taking my market share"?

These businesses are built on the premise that they have a competitive advantage. They cannot compete with the Loblaws, they cannot compete with the multinationals. Their competitive advantage is that on Sunday when most of these other places are closed, they charge a premium for people to access certain commodities. That is their competitive advantage; that is their handicap.

Mr Sorbara: Is that fair?

Mr Lepage: Absolutely fair. We have to understand that "fair" is a very relative term. What is fair to a big multinational is not necessarily fair to a small, independent-type business, and that is really the equation we are dealing with here.

In so far as the North Bay experience is concerned, I submit that my position here is very consistent, the way our city council and the way we have lobbied our own merchants in the city of Ottawa. As a matter of fact, if you talk to the malls' position here, officially theirs was that the tenants did want Sunday shopping. We took a survey of the tenants ourselves and in fact, their opinion was not representative of that of the tenants. So surveys are really semantic in so far as we can play with the numbers, can play with the results. Anybody who has been in university 101 and taken statistics knows very well that statistics are

a variable one cannot count on for any kind of conclusive answer, especially to something this important.

What we are saying with this present law is that you are asking the fox to guard the hen-house and that is not equitable. Regardless of academia in so far as surveys, in so far as equations is concerned, what you are seeing from the marketplace, especially from the multinationals, is a paranoid reaction to a proliferation of consumers going south of the border. Now they are saying: "Well, maybe we can't retain our own consumers. Let's take the path of least resistance." It is easier for me to take business from John, who is right next door to me, than to perhaps try to work out the long-term or the macro perspective of what is wrong with our economy, and I submit that is what the underlying problem is.

The Chair: Perhaps we could move on to Mr Carr.

Mr Carr: I guess the situation is that as we have gone around the province, many municipalities are going to opt to take the tourist exemption and open up. Like you said earlier, it is just a case of the percentage. What percentage of the population will be open is anybody's guess.

I am interested that on page 1 you said, "The proposed amendments do not do justice to the clear promise made by Mr Rae." and the other spokesmen during the election and that you are deeply disappointed in the failure to introduce amendments. Is that because you see as a result of the tourist exemption a vast majority of the province being open? Maybe you could just give us some idea of what you see happening.

Ms Vacher: First of all, the tourism exemption in the criteria set out in the proposed legislation is too general. Ottawa has received approximately or is entertaining the fact of seeing, applications from 12 areas in this city pushing for a tourist exemption. We do not have a problem with the exemption for local retailers in our Byward Market, from a period of Victoria Day to Thanksgiving Day, and we understand that with the 10 days of Winterlude we would accept that could be a tourist exemption for that area, but on a whole we find that the conditions set out in the criteria have too many loopholes and there are too many areas—in fact, I think we could probably apply for a tourism exemption for this whole city. We meet all the criteria. For the store that I run, I meet all the criteria and could open and ask for an exemption. So we feel the loopholes need to be tightened. This will be wide open. You might as well just open the whole province.

Mr Carr: With regard to that, a lot of municipalities have said they see a big difference in this province and that they would like to have sort of the local option. Of course, what happens then is you have a little bit of patchwork. Would you like to see it remain a provincial responsibility so that in fact they can say, "No, we'll keep everything shut?"

Ms Vacher: Definitely. It has to be. As far as CAOSS is concerned, it must be provincial legislation. It must be run by the legislation and with no municipal option. In this area we have quite a few municipalities. It would be pitting one against the other and it would not take long for the whole area to open up. Definitely the province must take this legislation back and run it and maybe it should sell

licences and maybe it would help the provincial government's deficit.

Mr Carr: Lord knows they need help.

Ms Vacher: That is right.

1420

Mr Carr: I think you hit the nail on the head. For example, some areas are going to open the entire city. Windsor said it was going to do that, and Thunder Bay and so on. They are going to use the broad criteria and any part of the province would meet the criteria. One of the concerns is that some of the businesses, for example, the hotel people, say there is a bit of a spinoff effect, that they see losing some business as a result of it.

What about some of those people in the legitimate tourist area? Do you think they should have the opportunity and if you took the tourism criteria and scaled it down a little bit, do you think it could be workable to help some of those tourist areas? Could it be done?

Ms Vacher: In some of the tourist areas I think that they have a definite requirement to open between periods, because not always are they a 12-month tourist area. I think the province must approve the exemption for that area. I think the exemptions have to be qualified and narrowed and I think the process whereby applications are handled should be publicized and hearings held. As an example for a restaurant wanting a liquor licence, the LLBO handles that application. I think that in the tourist areas this is how the province should handle this particular problem.

Mr Carr: One of the concerns that has come up as well is interpretations of the tourism criteria, because they are so broad, that what is going to happen is the municipalities will do basically whatever they want, and as a result be open to some court challenges because there is no other process to go up to. They are the ones that are ultimately on the hook when you hand it to the municipalities. I just wondered what your sense of it is, if it turns out that in your particular area they do open up because the municipality interpreted these guidelines, whether you would be looking at any court challenges.

Ms Vacher: CAOSS has monitored the Sunday shopping issue. We are six years old now. Since the court ruling that this was constitutional, CAOSS has worked with the police department in each municipality to notify it of people who have violated the law. We have been in touch with the Solicitor General's office on a regular basis, as well as the Attorney General's office, and have got some verification where police departments did not know how to react to certain situations. We will continue to monitor this issue, no matter how the legislation goes, and yes, if it means taking someone to court, I guess that is what we will do. We are deemed to make sure there is a common pause day in this community, in eastern Ontario, as we represent eastern Ontario, and to ensure that those people obey the law.

Mr Carr: Good luck.

Ms Vacher: Thank you.

The Chair: Mr Mills, you have a couple of brief clarifications?

Mr Mills: Thank you for coming and I would just like to make a couple of points of clarification on your brief. On page 2, paragraph 6, I would like to refer you to the Retail Business Holidays Act. Section 5a says, "A provision in a lease or other agreement that has the effect of requiring a retail business to remain open on a holiday is of no effect, even if the lease or agreement was made before the coming into force of this section."

I would like then to turn to page 3 where we are talking about club stores and the definition under clause 4(6)(b) may limit the opening of retail business establishments. The Attorney General of Ontario has indicated that a club store or similar store falls under the definition of a "retail store" and further to that, I have been advised that the Attorney General has advised police forces, in respect of those types of stores, to prosecute if they open on Sundays.

Ms Vacher: Is that effective immediately or when this legislation comes in?

Mr Mills: I understand the Price Clubs meet this "retail business" definition and it is my understanding that the Attorney General last week instructed the police forces to enforce the act.

Ms Vacher: Well, they are open on Sunday.

Mr Mills: Yes. Thank you.

Mr Morrow: Before I ask my question, I would really like to clarify something for Mr Sorbara. We did see people in Sudbury and North Bay, small business people, labour people, councillors, who were opposed to opening on Sunday.

I would like to thank you for coming here and for presenting your brief. We are listening and we are taking your ideas into account. They were very good. It will help us set our guidelines. The Monsignor said a line this morning that I really like, "Sunday belongs to the people." Do you see this as a quality-of-life issue?

Ms Vacher: Definitely.

Mr Fletcher: Thank you for your presentation. I agree with probably 90% or 95% of what your brief is saying, and even the part about what the promises were and were not. Gerry, I know you are right on when you talk about cross-border shopping being one of the things where we have to be competitive and everything else. What strikes me as far as your brief is concerned is you are not opposed to workers having the right to refuse; it is the tourist exemptions that are the real problem as far as this legislation is concerned, and in your recommendations.

We are a committee on the piece of draft legislation. We are going to go back and do clause-by-clause and hopefully make some amendments. One other point: When we go through the province, what you are saying and what people are saying in Thunder Bay is based on different circumstances. In Thunder Bay and Sault Ste Marie the economy is depressed, and in Sault Ste Marie especially. They have closed down their steel mill and they also have the problem of cross-border shopping.

When I look at the tourist exemption, I know that is what we are trying to address. Maybe we have not done it quite right yet, but we are on our way. As far as this

legislation is concerned as opposed to the other legislation, is it a step in the right direction?

Mr Lepage: Yes. It is definitely a step in the right direction. It is a qualified step in the right direction, I think would be more appropriate. To be fair, we do have faith in the government of the day to come forward with a law that is comprehensive in nature and is going to address these concerns and is going to ensure the protection of the marketplace in regard, not only to quality of life but we are also saying it could start with the retail worker, but how long would it be before, I submit, people are going to find it convenient to come with their families and start paying their taxes at the provincial Legislature. How would you like the prospect of perhaps sitting in the Legislature six or seven days a week? What goes around comes around. These things have a way of coming back to haunt ourselves and our own occupations.

1430

Mr Lessard: A couple of comments I have made have been touched on. There is some agreement with respect to the issues you raised. We have heard on several occasions the problem with respect to pharmacies, and that is something we are going to have to pay some attention to. We have heard about enacting meaningful penalties as well. We have also heard from quite a few people, and I think I am hearing it from you as well, that we do need to recognize the importance of tourism in the economy of Ontario.

We have also heard from people who said, "The best people to determine the importance of tourism in my municipality is my local government," but you seem to think that is something that should be regulated by the province. Do you think people in Toronto would have a better idea of what are the important factors for tourism in your local community?

Ms Vacher: I think, as far as CAOSS is concerned, it should be provincial legislation so that there is continuity throughout the province on the Sunday shopping issue and the tourism issue. Besides, the municipalities never wanted the option to begin with. Back in the old days when it was called "pass the buck," the province passed it to the municipality. The municipality wanted to pass it back but the province would not take it back. They really do not want it.

Gerry and I are members of the board of trade retail committee and in our meetings recently it was brought up that it might have to play a part in some of this tourism criteria. They do not want it either. We feel the best place for this issue is at the province. That is where it should remain and that is who should govern that legislation.

I just want to make a comment about the pharmacy, now that you have mentioned it. I think, as far as CAOSS is concerned, the pharmacies have lost sight of their purpose. We refer to their production range. In referring to that, we spoke to the Ontario College of Pharmacists and it supports smaller drugstores that sell strictly medicine and personal care products. That is the type of pharmacy we would agree to see open, not the pharmacy that sells garden hose, barbecues, lawn chairs, grocery items, clothing and God knows what else. That is where in many cases I refer to the pharmacies as being general stores disguised as pharmacies.

Mr Kormos: This whole tourism issue and the linking of it with Sunday working has me troubled and bothered a little bit, because it seems to me that if you talk to some people, there is not a bit of this great province you could not scratch and find a tourist area underneath, at least according to Sunday shopping advocates.

I am not aware of any tourist brochure from any jurisdiction in North America that proclaims, among other things—be it the sites, the scenery, the man-made or God-made elements there—advertises or promotes as well, “and to boot, my friends, when you come to the great state of Montana,” or the great province of Newfoundland or wherever, “we also happen to have Sunday shopping.” I am a little bit troubled by this link of tourism and Sunday shopping because I have never seen it historically linked to tourism.

You touched on that a little bit during the course of your submission. Can you comment on it a little more? I think there is something rotten in the state of affairs in this link between tourism and Sunday shopping. They seem to be two very different things.

Mr Lepage: In that respect they are two different things, but perhaps only in the vocabulary that is put forward. With respect to Sunday shopping and with respect to the tourist exemption, if indeed we grant a region tourist exemption and it is allowed to open up on Sunday, what is the difference between wide-open Sunday shopping and a tourist exemption? Essentially, the objectives of wide-open Sunday shopping have been achieved with a tourist designation.

We are very sensitive to the fact that already we have had the Rideau Centre apply for a tourist exemption. We know they have absolutely no interest in becoming a tourist mecca, that its interest purely lies in the exemption to open up on Sundays. We are saying there is very little difference between granting a tourist exemption under these regulations and simply opening up the province to Sunday shopping. I think that is where the linkage occurs in that respect, that people are using the tourist exemption as a guise to entertain and to come back to wide-open Sunday shopping.

Mr Kormos: So it is a little bit of a scam.

Mr Lepage: Absolutely.

Mr Lessard: You mentioned a place called the Rideau Centre. Not everybody on the committee might be familiar with that.

Mr Lepage: That is a 240-store mall. The Bayshore Shopping Centre, another mall, has also applied for a tourist exemption. I am not aware that they even get close to the West Edmonton Mall type of scenario.

Ms Vacher: They have elephants there.

Mr Lepage: Which is possible.

Mr Sorbara: Could I get a clarification? I was following Mr Kormos's line of questioning. Is he taking the view that the government's bill, which provides for the maintenance and promotion of tourism as the basis for an exemption, is a sham?

The Chair: I think that is an interesting question that unfortunately Mr Kormos does not have the opportunity to answer.

Mr Kormos: If Mr Sorbara will buy me supper to-night, he and I can talk about it at length.

Mr Carr: Let's save it for the boss.

The Chair: Indeed.

Mr Sorbara: Suddenly I do not want to know the answer to the question.

AMALGAMATED TRANSIT UNION, LOCAL 279

The Chair: Our next presentation is from the Amalgamated Transit Union: Mr Randy Graham, president; Mr Paul Macdonell, secretary-treasurer; and Betty Summers, president of the Ottawa and District Labour Council. We have approximately half an hour to divide up between your presentation and the questions from the committee members. I am sure the members will have many questions for you. Please start when you feel comfortable.

Mr Graham: My name is Randy Graham. I am the president, business agent of the Amalgamated Transit Union, Local 279. It represents the bus drivers and maintenance workers in Ottawa-Carleton and approximately 20,000 bus workers throughout the province of Ontario through the Amalgamated Transit Union—Canadian Council. We represent probably every major municipality in the province: Toronto, Hamilton, London and other areas.

I have with me a petition that we had presented to the previous Liberal government, I believe, the evening of the election and—

Mr Macdonell: We would like to give it to somebody.

Mr Graham: —we would like to give it to somebody today.

Mr Mills: Did it do you any good last time?

Mr Graham: The representative in the area where we handed the petition out was elected the next day. He was there speaking on behalf of the New Democratic Party, so I believe there was perhaps some flow to the position of the constituents in Ottawa-Carleton on Sunday shopping and to their opposition to having to work on Sundays. But I would also say that there were people in the Liberal ranks in the previous government who took our concerns, as we had done a presentation to the Solicitor General at that time and brought down some of our opinions at least in the legislation that had come along.

Anyway, the Amalgamated Transit Union, Local 279, represents the operating and maintenance staff of OC Transpo and Para Transpo. We are one of Canada's oldest and largest unions. Locally in Ottawa we represent over 2,000 workers.

We have been active for many years in an attempt to secure a common pause day for the workers of Ontario. Back in 1988 we met with the then Solicitor General, Joan Smith, and outlined our suggestions concerning her government's proposed legislation. Subsequently, those suggestions, or some of our suggestions, were incorporated into the final bill. I am pleased to see that this committee has some of the members who helped us at that time. Again last year we became active with the Coalition Against Open Sunday Shopping, who just previously spoke to you.

Our members, who have all worked on Sundays at some point in their careers, feel strongly that Sunday

should be a common pause day. Even those who currently must work on Sundays do not wish to see other worker groups forced to do the same. So serious an issue is this with our members that last August they called for a walk-out when OC Transpo management refused to let them wear the "No Sunday Shopping" buttons just previous to the election. Fortunately, at the last moment the company rescinded that decision. Our position on this issue is clear and absolute: A worker in Ontario must have the right to a pause or rest day that is common to others. We feel that any legislative action, especially by this government, should reflect this.

We believe Bill 115 actually weakens the current legislation. Here are our comments concerning the proposed amendments.

It is our opinion that the proper venue for the establishment of a tourism district should not be before a local but rather through a regional council. Here there is less chance of local bias and therefore less chance of abuse. This level of government in the past has shown greater restraint. It also is generally responsible for the funding of police, transit and transportation costs, all of which are affected by the stores opening. One of our earlier studies showed over a \$3-million impact on the Ottawa-Carleton area for increased transit costs alone.

Regarding the tourism criteria, the establishment of such allows later governments to change substantially the intent of the law by merely changing the criteria to reflect the differing views. We also wish to state that under the proposed guidelines a case could be made for almost any retail establishment in the Ottawa area for a tourist exemption. The proposed criteria clearly allows too much to be left for interpretation.

We agree a hearing should take place before passing the bylaw, but a notification process, with defined circulation criteria, perhaps region-wide, should be outlined in the bill.

No local council bylaw should be final. This allows a decision, no matter how ill-informed, biased or potentially harmful, to become law. As we stated earlier, the decision should be based regionally, but if it is the intent of this government to misplace the responsibility upon the local level, then an decision should be appealable to a higher authority, either the Ontario Municipal Board or a tourism district review tribunal.

With respect to the proposed changes in the Employment Standards Act, we applaud the attempt of this government to further workers' rights in Ontario. However, it is clear that the government is requiring employees to file and substantiate complaints against their employers in violation of the section being amended. It is an unfair burden to the worker.

In closing, we would like to say that all our members have to or have had to work on Sundays. It is the nature of our transit business, but it is not the nature of the retail industry in this province.

During the last election, Premier Rae stated that the government of Ontario should not shirk its responsibility on Sunday shopping. We agree with the Premier and feel that the province should take back the authority in this area, not increasing its delegated authority to local government.

Whatever legislative changes this committee recommends, we hope it will remember the workers of Ontario and further solidify the right to a common day of rest.

1440

The Chair: Thank you, sir. Mr Mills first, on a point of clarification.

Mr Mills: I would like to refer to page 3, where you say, "It is our opinion the proper venue for the establishment of a tourism district should not be before a local but rather the regional council." I wonder if you understand that when there are two levels of government in a region the application does go before the regional council and not before the local council.

Mr Macdonell: We only got that portion of the law that was being amended and that does not say that in there, so we did not see that.

Mr Mills: I would just like to clarify that point.

Mr Macdonell: So it will be at the regional level?

Mr Mills: When there is a regional government.

Mr Macdonell: Then we will ask for it to be at the province.

Mr Mills: That is what I was afraid you meant.

Mr Graham: I would say at the bare minimum, yes, the regional government, but in fact we believe the responsibility is to the provincial government and that the whole intent is moved away from that. I believe that is a change in this government's position from what it had brought forward earlier.

Mr Poirier: It is nice to have you guys in front of us. Thank you for coming along. I am glad you are also maintaining that it should be a regional government for deciding, like we Liberals had said, at your request, to give it to the regional government rather than the local government. I look at your brief and I understand where you are coming from. How would you make the definition of touristic more strict so that you do not have any loopholes? Have you people discussed this? Would you be able to supply what you would see, because it is a very difficult thing to do.

Mr Graham: Certainly, we are not the lawyers or the legislators. When you take a look at what is proposed, you see it is very vague. Anybody could say, "We're a tourist area," and I do not think that is anybody's intent. I do not think it was the intent of the original law that did stand to the Supreme Court, when the Ontario government had the ability to regulate it, and it was not passed down to the regions. There must be a clear definition put out so that it is not somebody deciding they have a pop stand on their corner and it is a tourist area. That has to be looked at, but certainly we are not the legal experts and I think that has to have some real consideration before it comes forward.

Mr Poirier: Do you agree that the only businesses that should be allowed to be open on a Sunday would be those that serve a very strict definition of what is and should be touristic?

Mr Graham: Yes, I certainly agree with that. There has been a lot that has been blown out of proportion in the last few months, when there was the open Sunday shopping

for a very short period of time. Everybody is trying to blame that, now we are not open on Sunday. I think we existed for a long time in this province, and successfully in this province, with the shopping hours we have already established. There were certain areas—I understand your government at the time had to make the changes, because Metro Toronto was going to try to get the whole thing as a tourist area and it was to address some of those concerns. But yes, we see that as a very strict definition.

Mr Macdonell: If I may add, Mr Chairman, the definition of tourism, in the way of shopping—if the store sells the same clothing that this person could buy back in Toronto or in New York state, I do not believe for any reason that kind of a retail outlet should be open on Sunday, whether it be in an area where there are a lot of tourists or not. If it is selling something uniquely Canadian, uniquely Ottawa or Ontarian, that a tourist would be interested in on a Sunday, perhaps we could look at something like that. But I do not believe that, just because it is in a given area, a bookstore should be open in a tourist district or be called a tourist district, or even be allowed to sell on Sundays.

Mr Poirier: Fair enough.

Mr Sorbara: You made I think a couple of points on the importance of giving retail workers the right to actually realize a common pause day. The government has said repeatedly that the purpose of this bill is to create a common pause day or to re-establish a common pause day in the province. There are many ways to do that, of course. You could require no businesses to operate. You could prohibit people from working. My own preference, by the way, would be to expand the current right to refuse unreasonable assignments of Sunday work not only to the retail sector but to the province generally. That would put real rights in the hands of people.

Why is it that your union prefers the method the government has chosen; that is, to keep most businesses closed? Is it not the case that if you really want to create a common pause day in Ontario, you ought to give the people of the province the freedom to stay at home, the freedom to be with their families, the freedom not to work? The best way to do that is not to force the businesses to close down but to give people the right to make it clear with their employers that they can book off on Sunday.

Even within your own union I suspect that you have negotiated specific provisions in respect of Sunday work, whether that be overtime or double time, but that you acknowledge it in your collective agreement. Why should we not get to that common pause day by expanding that right that you have negotiated for your workers, which is already in the bill, to other workers, rather than requiring storekeepers to close who frankly would not mind staying open if they had a chance?

Mr Graham: It seems this whole Sunday legislation came about from a few people and a few businesses. I do not think that there was anything broken in the first instance and we tried to fix something that was not a problem except for a few businesses or a few large corporations. We have certainly listened to most small

businesses, and they are not in favour of opening on weekends. They are not organized generally, they have—

Mr Sorbara: Just to interrupt you, they do not have to open.

Mr Graham: But if it is there, it is a domino effect. If somebody is open next door to you and they are taking your market share, yes, you have to open. I think that is what occurred. In this city, originally the Rideau Centre had no intention of opening and they did not want to be open on Sundays. The domino effect ended up on them. They opened, and then they were the last to want to close when places like Bayshore indicated that they wanted times when they would be closed. I believe that it is impossible to protect the employee completely.

Mr Sorbara: That sounds strange, coming from a trade unionist.

Mr Graham: A trade unionist, yes. If I am the person who is bargaining or if the trade union is there, I think an employee of a small business may be able to get off on Sunday, but is that person potentially going to be the manager of the store; is there any way of promotion? As a trade unionist I am also most aware of the subliminal ways an employer can make an employee do things. We deal daily with those types of grievances. We are probably, I would like to think, one of the larger and stronger unions in this city, and we see it happen. So an employee who does not have any protection or does not have somebody to go to on a daily basis to be able to look after his rights is not going to have the same kind of protection. I do not care what you legislate that with.

Mr Sorbara: Just in your trade union, do you see a harassment or a discrimination against those workers who do not volunteer for Sunday work in terms of promotion or advantage?

Mr Graham: Ours is a different system that goes through a seniority process. A bus driver is a bus driver, and they—

Mr Sorbara: But how do you determine who does what?

Mr Graham: They work on a Sunday through a seniority basis and a booking of work.

Mr Sorbara: But who gets it? The ones who are most senior or least senior?

Mr Graham: It would be their choice, but I would say that it is the most junior person who ends up working on a Sunday, because they book their work last. So it is not by choice that people work on Sunday, and I think you would find that if you asked anybody.

1450

Mr Macdonell: If I may just add something, remember both Randy and I have worked over 12 years on Sundays at OC Transpo, as with most of our members. You really see how important that common—I use the word; it is not a pause day, but a common pause day—when you have to go out at 2 o'clock and all your friends are out on the lawn. Maybe they are just mowing their grass or maybe they are just talking to you and you have your uniform on and you have to go to work. You really appreciate, after a while, when you have enough seniority, to get

off and stay home with your friends. You really appreciate how important those Sundays are. If you have never been forced to work on a Sunday, you may not appreciate it as much as we certainly do. We think it is very precious.

Mr Sorbara: I understand that, but most of the witnesses we have heard before this committee who are employers have said that they have a long list of people who are willing to work on Sunday.

Mr Carr: My question goes along the same lines. I was interested in how exactly it is determined. You mentioned seniority. What is the situation now when you have the number of Sunday people? Does it go down the list of seniority and do they then volunteer? How does it work?

Mr Graham: It goes by seniority and the last person would be forced to work on a Sunday. Our people, when they start, have the opportunity to be off every second Sunday. That is something that has been negotiated for them. But if you have the opportunity to take them off, you take them off, Sunday more than—before, they would have the opportunity to take a Saturday off, or anything else. It is the one day that they have the opportunity to spend with their families.

We talk about people spending money, the different things going into the province. It is the day that they have the opportunity to maybe go down to—they finish work on Saturday, they go to Niagara Falls for Saturday night, Sunday morning, and they can spend a day doing things with their family. They do not have that opportunity if it is a Monday or Tuesday. It could not be possible to say, "My days off are Tuesday and Wednesday and let's have the school system so my children go to school on Saturday and Sunday and they're off on the Monday and Tuesday so I can spend time with them." That is the problem that exists here.

I do not think there was anything that was broken in our system. It went for many years, and because of a few greedy people who were having problems with their market share, they decided that they would open on the Sundays. It had not been a problem. It is a problem today that has just been perpetuated by a few corporations.

Mr Carr: When we were in North Bay, one of the labour groups, and I forget which one it was, said that they get double time, I believe, on a Sunday and that as a result of that there are a lot of people in their union who sign up to get the double time. Is that where you are at now, or is it time and a half?

Mr Graham: Our people get paid time and a quarter on Sunday, but that is not the incentive for them to work it. I would say that if it was time and a half or double time it still would not be the incentive for them to work. Our industry might survive, but the retail industry is not going to be able to survive paying double or triple time on Sunday for people to be able to work. That is really what we are talking about. There was not a problem in the local tourist areas, Wasaga Beach or something like that that would be open on the Sunday, because they have the other seven months where they are doing nothing and they have the opportunity to spend with their families. It has been a problem only when it has hit major metropolitan areas, and

pay time; that is why the incentive has to be there either for Saturdays or for Sundays.

Mr Carr: I think you are right, because in speaking with one of the labour groups informally it said what it sees happening is that it becomes commonplace. I think they said they get time and a half or whatever, and they said there are enough people, but if it becomes commonplace it will no longer be that you would get a premium for it because everybody will be doing it.

One of the other small business groups said, and they rounded off the figures, that of the 100%, it is usually about one third do not want to work Sundays, one third do and then one third do not want to but they sometimes will, it is sort of off and on, "We'll do it this week and maybe next." What you are saying is that this is not the case with your particular union, that it is not one third who will say, "Sure, I'll do it," it is the poor last guy on the list, because when they go down based on seniority, it gets—is that the way it is?

Mr Graham: It is the people who end up forced to work who end up working. I would also say that when the law was struck down, I believe it was Steinberg's indicated that it would no longer pay time and a half or double time to its workers on Sunday because now it was a normal day, and that was not the way it was bargained. So I believe that you are correct with your assumption that once it becomes an ordinary day, then it would be negotiated out of contracts or that would be the implication that would be put there.

Mr Macdonell: Just to give you an understanding of how much people dislike to work on Sunday, our premium of 25% amounts to an approximate increase of \$4 per hour for anybody who works on Sundays. Of the 1,390 operators who work at OC Transpo, only about 12 to 15 choose it by their own accord. The rest are all forced to work it by their seniority.

Mr Graham: And with most of those people, their wives are either nurses or in some trade that has to work on Sunday anyway and they have to take a day off with them during the week.

Mr Macdonell: There are 350 days' work, so roughly 1,000 operators go down the list and refuse to work on that day, even though it pays \$4 more an hour, refuse to work on it because they do not want to work on it. It is quite interesting.

Mr Morrow: I would like to clear something up that was brought up by Mr Sorbara and friends, if I may. Negotiated contracts and agreements are something that unions have been fighting for for 40 or 50 years. They enable people to have double time, triple time, Sunday premiums, if possible. The amendments to the Employment Standards Act are to protect the hundreds of thousands of people who have no rights, such as retail workers.

Now that I have said that, a question to the president of the labour council, if I may. How many people do you actually represent in the fine city of Ottawa?

Ms Summers: In Ottawa-Carleton, the labour council represents approximately 30,000 members.

Mr Morrow: That is quite a lot.

My impression is that Sunday shopping did not actually create jobs but that hours and workers were actually affected; hours were just shuffled around. Is that not true?

Ms Summers: Yes.

Mr Morrow: Do you have any comments on the effect of Sunday shopping on family life?

Ms Summers: Yes. As I understand, these are amendments to the Retail Business Holidays Act. Yes, we represent essential services such as hospitals, nursing homes, etc, who have to work on Sundays. I do. I am a hospital worker, and it is not my choice, because we do not get to spend time with our families. I see that there has to be one common pause day when everybody can do whatever they have to do with families. No, it is not going to generate more jobs. The hours are going to be shifted around, because they will make it a continental workweek. They will give them a day during the week instead of on a Sunday. So, no, I really feel that Sunday work is not going to create more jobs.

Mr Morrow: Thank you, sister. And now to my brothers in the ATU, I really understand what you are talking about. My father was a bus driver in Hamilton, so there were quite a few problems on Sunday working when I was young. Do you believe workers in Ontario, specifically retail, should have the absolute right to refuse work on Sunday?

Mr Graham: I believe they should. Unfortunately, I think they have to have help from the government to make the law.

Mr Morrow: That is what we are doing.

Mr Graham: But I believe there has to be an absolute right. I think, quite honestly, that it is almost impossible to be able to regulate that, though.

Mr Lessard: I take it that you are familiar with the amendments that have been proposed to the Employment Standards Act with respect to protection of workers' rights. Those are the right of a retail worker to have at least a 36-hour break; the right to refuse Sunday work, and that removes the reasonableness element of it that was in the previous legislation. It also permits them to refuse within 48 hours of the Sunday and not to be dismissed or disciplined because of that, and also gives employment standards officers the right to order compensation or reinstatement of an employee.

In your submission you state that you do not think that we have gone far enough with respect to those provisions, and I would like to know what you think we might be able to do in addition to that.

1500

Mr Macdonell: There are two approaches the government could take: a reactive or a proactive action. By doing this, it puts the onus upon the employee to report, to document, to, in a sense, prove that he or she is either being forced to work Sunday or that she is being discriminated upon in her promotion because she will not work on Sundays. It causes the employee the stress of doing that. I believe that is the wrong place to be. Most of the people who are going to be forced are not going to be responsible adults,

level-headed, educated. What are they going to be? They are going to be, perhaps, 17- and 18-year-olds who may not feel the same way about their rights or may not have the same sureness that the people around this room have. I do not believe that just by tightening up the Employment Standards Act you are going to get into a position where people will actually feel those rights and actually exercise them.

Mr Lessard: We are looking for some suggestion.

Mr Macdonell: If you do not have any Sunday shopping then you will not have that problem.

Mr Graham: Yes, that is right. I believe the wording is much better than in the previous legislation. We do not have a problem with that. But if you were terminated from your job, it is fine to say that you will be reinstated and you will get that money back, but there is a period of time that your family goes without food, and if you were a single mother who is forced to work on a Sunday it is a lot bigger gun to your head to work on the Sunday than it is to know that six months or a year later you will be reinstated and get full compensation. We are not talking about people that generally have a lot of money in their bank account and can survive for a period of time while the process goes on. Everybody is aware of the length of time the process takes to have somebody reinstated. If there is not Sunday shopping, or if it is very restricted, then we will not have the problem, and that is the best way to deal with it.

Mr Fletcher: On the same issue that Mr Lessard was talking about, in your collective agreement, if an employee is terminated and you grieve it, how does he get paid, or does he have to wait for the process?

Mr Graham: Generally, whatever UIC will pay them for a while.

Mr Fletcher: That is right. I know one of the flaws with the system is that you have to wait until you go through the process.

Mr Graham: That is right. I recently had an employee who just received a decision on Thursday or Friday, who was reinstated after two and a half years of being off work. He has a family of four plus a grandfather to look after. He has had a terrible time, and I believe the company will fight the reinstatement all over again. It still is coming up. So we do not know whether he is back to work yet.

Mr Fletcher: As far as our draft piece of legislation is concerned, you say it is worded a little better, in other words, it is offering a little more protection for workers to refuse the work and not have any reprisals taken against them.

Mr Graham: But we still maintain that the best protection is not having to work on a Sunday, and the legislation will protect that way. We can talk for ever about processes and the protection of the employee's right.

Mr Fletcher: Yes, I know. Compared to the previous legislation, is this a step forward, as far as the employment standards part?

Mr Graham: The employment standards, definitely, is a step forward.

The Chair: Thank you very much.

Mr Graham: You are more than welcome. Thank you for the opportunity to speak to you.

GLOUCESTER CHAMBER OF COMMERCE

The Chair: We now have a presentation from the Gloucester Chamber of Commerce, with Mr Jim Anderson and Mr Richard Vroom. We have approximately half an hour, which is divided up between your presentation and the many questions which the committee members will have for you. Please feel free to start when you are comfortable. If you could, whoever speaks first, identify yourself to the mike for the purposes of our recording.

Mr Anderson: My name is Jim Anderson. I am the executive director and chief administrative officer of the Gloucester Chamber of Commerce. The city of Gloucester currently has a population of 102,000, with 3,200 small businesses. This represents approximately 30,000 employees.

The Gloucester Chamber of Commerce is an association of Gloucester-area businesses with over 800 member firms and is recognized as Gloucester's voice in business. We are committed to initiating, developing, promoting, protecting and evaluating policies and programs which further the economic progress, free enterprise and the quality of life in Gloucester and, of course, in this, our province of Ontario.

The Gloucester Chamber of Commerce has, with some considerable concern, reviewed the recently proposed amendment to the Retail Business Holidays Act in respect to the opening of retail business establishments and the employment therein. That is under Bill 115. We have prepared a submission on these matters which we would like to present to you and your committee here today. With your permission, Mr Chairman, I would now like to have Mr Vroom proceed with the presentation.

Mr Vroom: We thank you for this opportunity to meet with your committee today. As Jim has said, our membership encompasses both the small entrepreneur and major corporations, including retailers and traders throughout several small communities which form the makeup of our progressive city of Gloucester.

Presently about 34% of Ontario workers work some Sundays. This number includes not only police, firefighters and hospital workers, but also employees in the tourism, hospitality and recreation sectors. It works out to about 300,000 unionized workers and one in three of the retail workers in Ontario.

We frequently have heard of the concern for a common pause day. However, we wonder why we do not hear the logical extension of these arguments. That is to say that in the interest of a true common pause day, restaurants and movie theatres should be closed, television and radio stations prevented from broadcasting, plants shut down, planes, trains and buses prevented from operating, and of course, the Blue Jays banned from playing on Sundays. Given the way they played last Sunday, that might be a good idea.

The foregoing obviously makes no sense, being virtually impossible to implement, manage and control. We can only recommend that the marketplace be permitted to make its own decisions for a pause day and not be legislated.

Before going on we would like to take a few moments to discuss the tourism criteria in Bill 115.

When Bill 115 and its companion regulations were introduced in June 1991 the Gloucester Chamber of Commerce was surprised and dismayed to read that community chambers of commerce and boards of trade had been given the responsibility of dealing with an application for exemption under subsection 4(3) of this act.

Paragraph 3(1)4 of the regulations made under the Retail Business Holidays Act, tourism criteria, reads as follows:

"If there is a chamber of commerce, a convention and visitors bureau, or a similar organization serving the area being considered, a letter indicating that the organization, or if there is more than one of them, one of those organizations, supports the opening of the retail business establishments in that area on a holiday."

A survey of our own chamber of commerce indicated that there was strong opposition to this regulation from our members. To the best of our knowledge, neither the Ontario Chamber of Commerce nor our sister organizations were consulted as to our willingness or ability to participate in this manner. Had we been consulted, we would have pointed out that chambers of commerce and boards of trade in Ontario are not regulatory bodies and certainly do not wish to be perceived as such. Moreover, we are not prepared to accept the legal implications that may flow from making these kinds of decisions.

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On behalf of the Gloucester Chamber of Commerce and its members we strongly oppose this delegation of authority and ask that chambers of commerce be deleted from Paragraph 3(1)4 of the tourism criteria regulation. In doing so, we further note that a number of visitor and convention bureaus in the province are also operated by chambers of commerce and boards of trade, and suggest that they too may wish to be deleted from this regulation.

The issue of holiday shopping is of great importance in these days of increased cross-border shopping. Over time, our members' attitudes to the opening of retail establishments on Sundays and holidays has changed. In 1988 our members adopted the following position: first, that the Ontario government recognize the problem of individual municipalities' control over retail business holidays by maintaining uniform provincial legislation; second, that the Ontario government reinforce Sunday as a common day of rest under the Retail Business Holidays Act and provide guidelines for municipalities for essential service exemptions, including tourism; and third, that the Ontario government be consistent in its legislation on whether Sunday is a holiday in both the Retail Business Holidays Act and the Employment Standards Act.

When that position was adopted the sense of our membership's sentiments was that it was divided on the question of whether retail stores should be permitted to open on Sundays and holidays. Our members supported uniform, centralized regulations, as they feared the domino effect that could occur if this matter was governed municipally.

Following the province's flirtation with Sunday shopping, however, we do sense a change in our members' views. While we have not conducted an in-depth scientific survey,

we believe that our members are still divided on whether they wish to open their businesses on Sunday. We do note, however, that there is a distinct change in attitude as to whether businesses should open on Sundays or holidays. That is to say that our members are more concerned now as to whether someone else opens on Sunday and are of the conclusion that it should be up to the individual operator and not a matter of legislation. In support of this conclusion we offer the following examples.

In April of this year the Gloucester Chamber of Commerce surveyed its members to determine not if retailers should or should not be open on Sundays but rather to determine what the impacts might be and to see if there was a consensus that could be developed. Based on the results of that survey, the Gloucester Chamber of Commerce concluded the following:

First, that the loss of the Sunday option for retailers will have a significant impact on the local economy. The majority of surveyed small retailers would prefer not to be open on Sundays, but an equal majority of major retailers would insist that they have the right to open Sundays and therefore remain competitive as opposed to having their hours legislated. The results would appear not to deviate from that should the decision be made to have this area of Gloucester come under a tourism designation.

Second, the Gloucester Chamber of Commerce also surveyed its members on the question of Sunday shopping with the following results: 79% of our membership indicated they are in favour of Sunday shopping but prefer a pause day for quality family time. However, most businesses, large and small, feel that this practice would not be manageable or enforceable and therefore feel that the marketplace should make the decision, not provincial or local governments.

The board of directors of the Gloucester Chamber of Commerce adopted this motion in April 1991: "That the Gloucester Chamber of Commerce believes that retailers in Gloucester should have the choice to open for business on Sunday."

Some of the reasons cited by the board for the motion are as follows: to service the tourist market that expects to be able to shop on Sunday; to be competitive with retail operations in the United States and bordering municipalities, including Quebec here; to eliminate discrimination that currently exists against some categories of merchandisers, such as fashion, jewellery, footwear and the large grocery chains; to reduce government interference in business; to create new jobs; to provide freedom of choice—for consumers' freedom to shop, for retailers' freedom to open or close, for workers' freedom to work or not work and for citizens the freedom to organize family time or to spend time alone; and, finally, to allow these choices uniformly across the city of Gloucester, the municipality of Ottawa-Carleton and in fact throughout the province.

To us in the Gloucester Chamber of Commerce, these comments indicate a strong support for freedom of choice relative to retail business holiday openings.

Also, with regard to the Employment Standards Act amendments, our members believe employees are appropriately protected in current legislation, in that they are

permitted to refuse work which they consider unreasonable and to refuse work that is in contravention of the Retail Business Holidays Act. We do not believe the proposed amendments are necessary or appropriate.

In conclusion, people are always striving for autonomy, as individuals and as communities. This is very well illustrated in the birth of the cities of Nepean, Kanata and our own Gloucester. One of the persistent grievances people have is that in a complex political world their voice counts for very little. They vote at election time but sincerely believe it will make very little difference. Yet it is true that at all levels of government people can have the greatest impact. Decisions made at the provincial level affect most of us on a day-to-day basis. Provincial policies set the tone for the community and should directly reflect the views of its citizens.

Taking into consideration the diverse nature of this province and the acumen of its business leaders, we strongly believe these business leaders who have helped to create the unique nature of our own municipalities and our own province will continue to exercise their good judgement. Therefore, the decisions will be made by the people who best understand the community values, varying of course from community to community. If the people of Gloucester do not want Sunday shopping, there will be no Sunday shopping. Business leaders will meet the needs and desires of the marketplace—no more, no less.

1520

Mr Daigeler: Welcome, Jim. I do not think we have met before. Would you say that the position of your chamber would be more or less reflected in, say, the Nepean-Kanata Chamber of Commerce or the Ottawa-Carleton Board of Trade? How do you explain the discrepancy of your position with the group that appeared before us, the second-last group, the retailers who were arguing very strongly against opening on Sundays? I am trying to get a sense really of what the mood is here in the Ottawa-Carleton area. Up to now we have been hearing quite strongly and forcefully from the business community what you are saying, that it wants to stay open. However, today, here in Ottawa, the majority of people have been arguing very strongly against opening. You seem to be presenting a case that is more in line with what we have been hearing so far. I am just wondering, are you speaking basically from what you hear in Gloucester or are you also representing or reflecting the mood in the Nepean chamber, the Kanata chamber and the Ottawa board of trade.

Mr Anderson: First, we do not or cannot speak for Nepean or other chambers. However, we do work closely with them. I have consulted to some great extent with Nepean and with Cumberland, our neighbour. In fact, they assisted me in making up this report with their advice. Their feelings are basically along the same route.

In our investigations we are dealing of course with the actual business people themselves from within our membership. It has been our experience that what they are saying is that they themselves want to make the decision if they are to be open, but at the same time their personal preference—and this is both the small retailer and the large

grocery chain or large shopping centre—is that they would like that common pause day. They would like it closed and they would like some quality time for themselves, but they themselves prefer to make the decision. They have all suggested, both the large and the small retailers, that they will make their own decision. They feel that: “I will have to open if my neighbour opens. If he’s taking my money, then I have to be there.” But they all feel that within time it will balance itself out and it will get down to basic normal shopping.

Mr Daigeler: I guess you indicated that is really somewhat of a shift of opinion. Some two years ago probably the business people were more concerned about being pressured by their competitors.

Mr Anderson: Yes. I think at that time the business people came out very strongly in favour. In fact, it was 79% in favour of Sunday shopping.

Mr Daigeler: In favour of Sunday shopping?

Mr Anderson: Yes, at that time they were definitely in favour of Sunday shopping.

Mr Daigeler: The Gloucester chamber?

Mr Anderson: Oh, I am sorry—against. They felt the problem was with the next-door neighbour, the next community, staying open and they could not. Again, in some areas it was reversed—they opened and their neighbours could not. There was just that continual conflict in there.

Mr Daigeler: Again, the group of retailers that was here earlier arguing very strongly against Sunday shopping made what I thought was a rather curious argument, that the government should give a break to the small retailer, basically, “If the small retailer decides to stay open, that would be fine, but don’t let the big department stores open.” Would you agree? He felt very strongly that small business deserves a break and should be given that competitive advantage. Would you support that argument?

Mr Anderson: I do not think we would support that. I agree that small businesses deserve as many breaks or need as many breaks as they can get these days, but I do not think that is the way to go about trying to help small business. I think most small businessmen really come down to the fact that they strongly believe in freedom of choice and less government intervention in how our businesses are to be operated. I have a number of clients completely across the region, mostly small businesses, and most would choose not to open on a Sunday. Most do not now open on a Sunday, and did not when they were able to, but they want the freedom to open or not to open. It is their choice. If they feel they need to open, to go head to head against the major retailers, then they will, but they want the choice. I do not think they want the break to say they can stay open rather than the majors.

Mr Carr: Thank you very much for presenting this afternoon. I know it has been mentioned by some of the other chambers, and I know the parliamentary assistant has said they are listening, but I just wanted to bring to his attention page 4 where the chamber says it was surprised and dismayed to read that the chambers of commerce would be involved in this process. I think that is one area

where we may see some changes on the government side. Each of the chambers is reinforcing it each time around. As you know, the Solicitor General—and I think even the Premier—has said the fundamental principles will not change but things like that might, so I just wanted to bring that very quickly to Gord’s attention. I think he is well aware of it.

My question relates to the situation of how you see your community protecting some of the workers. As you know, the big concern with this government, right from the Minister of Labour when he introduced his statement, was to protect the workers on Sunday. In fact, with this legislation the retail workers will probably have more protection than anybody else. But we have also heard from some of the business community who say, “Nowadays in the service industry if I have somebody in on a Sunday who does not want to be there and his face is down to the floor it costs me sales,” whether it be a restaurant or whether it be a retail business. I just wanted to see what your thoughts were on how you see business protecting the workers. The last group, from the Amalgamated Transit Union, said it cannot be done. I just wondered how you see it being done if in fact you were allowed to open up.

Mr Anderson: In discussing this problem with our membership, sir, we find that the present legislation is adequate, and the feeling of the employees is just that, that it is adequate. They have the coverage out there. It is like anything else—it is there. If it needs to be used, it can be. There is an avenue to follow if you have a problem. Like anything else, sometimes these avenues might take time. There may be a few little slow periods in them or whatever, but they are there, they are open, the public knows it, and the employer knows it as well. To the best of our knowledge, we have no problems we are aware of that cannot be worked out. Do you want to add anything to that?

Mr Vroom: In the area that is most affected by this, which would be the retail industry, I think there is no shortage of people who are prepared to work on Sundays and extra hours. There are a lot of unemployed people and young people, students. I have three in my house who are very happy to get as many hours as they can. That never seemed to be a problem, having people work.

Granted, maybe management does not want to work, and there is certainly a downside to this, and that is not even management—it is the owner of the business who is very often the one who has to work on Sunday. He cannot make his manager work. If he wants to open, then he may have to work. That is up to him. He has that choice to hire some staff and to be in the store himself on Sunday if he feels it is worth while. He will know very quickly whether it is worth while or not by the cash count at the end of the day. If it is not worth while, he is not going to open up the next weekend.

Anyway, most small businesses have a pretty loyal following. People come and shop there because of some loyalties. I think they would be satisfied to have it open. They will open if it is worth while and close if it is not worth while to be open.

Mr Carr: One of the other suggestions that has been made is that the reason the government made these exemptions so broad is that it wanted to be able to keep the election commitment of having a common pause day but wanted to make it so that tourist areas could open. They were very liberal in making it very open. Almost any part of the province could open. It was a difficult task. I think even the chamber, in its presentation, said it appreciated the work of the Minister of Tourism and Recreation, because it thought it was he who was pushing for these tourist exemptions. That being the case, probably a lot of this province will be open. What is your feeling with the tourism? If they are broad enough, why would you not just be happy to have your area open up under these tourist exemptions, even if it was to sort of skirt around the election promise?

Mr Vroom: I think that might solve the problem for our area, but I think you have to look a little bit broader than just the city of Gloucester. We are also interested in business across the province as a whole and I do not think you should get around what you are trying to do or what we feel just by exemptions. That is not really the way to legislate. I think you need to go at the problem and deal with it up front.

Mr Carr: I agree.

Mr Mills: Thank you, Mr Vroom and Mr Anderson, for coming here today and expounding on your theories about the Sunday working. I would prefer to call it Sunday working, and not Sunday shopping, because, after all, that is what we are here to talk about.

First, briefly, on page 4 you say that when Bill 115 and its companion regulations were introduced, etc, the community chambers of commerce and boards of trade are being given the responsibility of dealing with an application. That is not quite right. I do not know if you meant that. The chamber of commerce has been asked in the draft regulation to provide a letter of support, but ultimately the decision-making process is the council's. I just wanted to clear that up.

As you can imagine, going around the province and listening to people, we find it very difficult when we hear one point of view, and then another point of view that seems to cancel it out.

Last week we were in Sudbury; the chamber there is on record as saying that Sunday shopping, per se, is a waste of time: It does not make any sense; it costs more to open; it is a strain on their people. I was jotting all that down and saying to myself, "Well, that is the position of that chamber." Then I come here and you say that the loss of the Sunday option will have a significant impact on the local economy.

I have a cutting here from the Ottawa Citizen of January this year. This is by David Scanian, a Citizen retail business writer, and he says: "Sunday shopping may be gasping on its deathbed. What was seen last year as a boost to sales for struggling retailers is now being dismissed as a costly burden that does not put any more money in the till."

We have the British Columbia experience where, for the past four years, shops have been wide open on Sundays. The statistical evidence shows that retail sales have increased by 1% over four years.

1530

The Chair: Do you have a question?

Mr Mills: You say it is having a significant impact on your economy. I am just wondering, sir, how do you come to that when we have been told and we have read that this is not the case; why is it special in Gloucester? The Chairman will be happy, that is the question.

The Chair: It is a question.

Mr Vroom: Basically the impact is in the area of jobs. We feel there are jobs being lost in the city of Gloucester to other parts of the regional municipality across on the Quebec side. That is basically where we are seeing the impact on the economy. We feel that if it is more open, there will certainly be more jobs created.

Mr Mills: For whom? Students?

Mr Vroom: For the staff, for students among others, certainly, and that is an important part of our group.

The Chair: Are you finished, Mr Mills?

Mr Mills: I had better be, because you cut me off.

Mr Fletcher: Your chamber of commerce is saying that you do not want to have the authority. We have heard that from other chambers. We accept that, fine, you will not have the authority as far as we are concerned, if we make that amendment. Is there any way that a chamber should be involved?

Mr Anderson: Only as we are here today, to advise, to discuss, to bring to committees such as this the opinion of the business community in our city, so that rather than have 800 people before you here today, you have one association speaking for them.

Mr Fletcher: Okay. When I look at the briefs from the previous shopping issue in 1988, when the chambers of commerce presented at local meetings, they were not talking about choice. There was no mention of choice. What has changed?

Mr Anderson: The experience of having tried it. They have been out there and some have found it successful, others have not. There have been all kinds of problems with it: employee problems, loss of dollars in the till, that sort of thing.

Mr Fletcher: When it comes to the problem of cross-border shopping—and I am going to talk primarily about the United States cross-border shopping—are you dismayed at what goes on with people crossing at the border to shop in the United States?

Mr Anderson: Not in particular. This is not a new issue. This has been around for some time now, especially since the new tax, the GST. It is something with which we in the chamber movement have worked very closely in trying to solve problems with all the chambers throughout the province. So it is not a new problem.

Mr Fletcher: No, I know it is not new, but you do not like the idea of people crossing the border to shop. It is not really Sunday shopping that forces people to shop. It is prices and things like that; it is the marketplace, that is what dictates that the consumer goes across the border. That is interesting.

As far as employment standards are concerned, I have a couple of questions. In 1988 there was one Liberal member of the government who said employees were jeopardizing their jobs by refusing to work, and an employer would eventually find someone who was willing to work on Sundays. Again, the Ontario government of the day was going to look at perhaps making retailers pay a premium such as time and a half to protect employees.

Obviously, the Liberal government of the day understood that employers and employees were not working together on this and the employees did not have the protection. And yet you are saying they do have the protection. The government itself is saying there was no protection, and now you are saying there was lots of protection. I am trying to get a handle on this.

Mr Anderson: What we are saying is that in the legislation as it stands now, under certain parts of the act—and I do not have it right here in front of me—employees have the right to refuse to work on Sunday.

Mr Fletcher: Unreasonable work.

Mr Anderson: Yes, and these types of regulations that are in the act now appear to satisfy the employees.

Mr Fletcher: Even though some employees were being coerced into working on Sunday, it was still okay?

Mr Anderson: I worked myself for 14 years on shift work and I know what the problems were.

Mr Fletcher: Yes, so did I.

The Chair: Thank you very much, Mr Anderson and Mr Vroom.

Before our next group comes up, I would like to mention a small change in our timetable. The first group on the 15th is being moved to accommodate Mr Pilkey, the new Solicitor General, and at 1 o'clock on August 29 we are having the representative from Shoppers Drug Mart. That is back in Toronto.

1540

CATHOLIC WOMEN FOR LIFE, FAITH AND FAMILY

The Chair: We now have a presentation from the Catholic Women for Life, Faith and Family, Mrs Diane Watts. Could you introduce your friend?

Mrs Trudeau: I am Margaret Trudeau. I am from the same association.

The Chair: You have half an hour to divide between your presentation and the many questions which I am sure the members of the committee will have for you. Please start when you are comfortable.

Mrs Watts: The Ottawa chapter of the Catholic Women for Life, Faith and Family welcomes the opportunity to present this brief to the committee. We are grateful that we live in a country where the views of all citizens can be freely expressed without fear of discrimination or prejudice.

Our organization was founded in the fall of 1985 by a group of Catholic women from all walks of life who were aware of the changes taking place in our society, which appeared to be a threat to life, to our faith, and to our families. Many of us are parents; many of us are grand-

parents. In Ottawa we have a membership of approximately 300, and across Canada we have approximately 4,000 members.

Our purpose in coming here today is to support any legislation that will promote reverence for Sunday as a holy day. To Catholics it is the feast of the resurrection of the Lord, which teaches respect for the body and soul and calls us to the primacy of spiritual values. This in turn benefits the performance of our duties in this world. We are against legislation which will deprive us of the occasion to elevate our minds and hearts to supernatural matters and to the fulfilment of our duty to give God due public worship.

We are deeply concerned about the effects that Sunday shopping will have on our municipalities and on their relationships within our province. Ontario has always been a united province. We have shared a common culture and heritage. We have maintained a stable link between east and west of Canada. Sunday openings will divide the province internally. Municipalities will be competing for financial gain.

Let us take a lesson from the province of Nova Scotia which in 1985 enacted bylaws to widen exemptions for Sunday closings in municipalities across the province. Two years later, these laws were repealed as not workable. Municipalities became competitive and enforcement of the law became expensive. Dartmouth and Halifax were rivals for trade. We were speaking with an official from the Nova Scotia Legislature who commented, "There was general relief when the law was reversed."

We believe Sunday shopping should be discouraged. Six days of work should be sufficient to provide for the material needs of members of a developed nation. We already have in place laws which provide good services for Sundays—small convenience stores, drugstores, gas bars—which serve the needs of the community; also, hospitals and all the other services which function on Sundays as well. Ottawa tourists and local people who wish to browse on Sundays have museums, historical sites, as well as our Byward Market to visit.

Sunday openings across Ontario are a threat to our way of life. Public officials responsible for the wellbeing of Canadians should reflect on the long-term effects of such a social upheaval. With the loss of our tradition of having Sunday as a day of rest and recreation—the root of recreation is to re-create, and I think that involves physical as well as psychological and spiritual strengths—as a result, society would surely suffer. There would be no common family day to look forward to.

Let us consider all the people whose lives would be changed because of Sunday labour. Will our legislation protect employees against the unreasonable demands of some employers? Part-time employees especially are vulnerable. They are mostly students and mothers who need to work to supplement family income which is insufficient to support a family. The security of their employment is threatened when it is known that they feel strongly about being with their families on Sundays.

Some citizens could become the defenceless victims of the greed of some employers. What of these employers who are often compelled by competitors and laws to remain open

to succeed or to survive? Slavery to work is not the mark of a free and civilized nation.

We agree that Ontario is a pluralistic society. We have traditionally welcomed members of many cultures to our province. Our way of life is what attracts so many in the first place. They have sought us and our culture, and have chosen to live among us. They do not expect us to lose our common heritage and traditions, but willingly participate in our Sunday as a day of rest and re-creation.

If our Ontario government follows the policy of British Columbia where Sunday openings were meant for Expo 86 only but have continued, we will have the same disastrous results. British Columbia has no pause day. Every day is the same. One student we know who was paying for his education by playing music at a bar every evening in Victoria now plays on Sundays as well. He misses his free evening but has to quit his job if he wants a rest from work. A mother who works part-time in a flower shop in Vancouver now has to work alternate Sundays. She resents this since her family has to adjust to suit her hours. This makes less time for precious family togetherness.

I would like to mention here that there are great stresses on the art of mothering. The art of mothering does not go well with the rat race and all sorts of business pressures that are being put on women. The art of mothering is very important for future generations. It is not something that can be measured very easily.

I would like to put in a word for mothers, and say that mothers need protection to develop the art of mothering from which we as healthy people have all benefited. But there are many people who are not healthy because of the poverty of the art of mothering. Sometimes it is not the mother's fault, but pressures on the mother. Work is one of these pressures.

This makes less time for precious family togetherness. Some utopian concepts sound harmless in theory but in practice their long-term effects on ordinary members of society are horrendous. Overwork leads to physical and mental stress and illness, which is costly for our publicly financed medical care system.

Sunday shopping will not affect the faith of committed Christians. Many weaker Christians, however, may lose their link with the spiritual and psychological life support in the faith, to the detriment of themselves, their families and society. There are many mentally weak and addicted people not reached by established social support systems who need a viable religious community to help them. The Catholic church has traditionally welcomed the poorest and most needy and hopefully will continue to do so.

Common sense tells us that criminal activity is not concentrated among believers and followers of the Judaeo-Christian moral code. Here I would like to point out I am not speaking of those who officially profess to follow the Judaeo-Christian moral code, but those who actually do follow the Judaeo-Christian moral code. It is seen among those who have lost hope in society—I am speaking of criminal activity—those who have lost control over their behaviour or those who suffer the debilitation of family neglect. Every effort should be made to have one day for

instruction and direction in moral living and concern for our neighbour. Sunday observance presents this opportunity.

In the 1981 census, 87% of our population in Ontario called themselves Christian. This large percentage of Ontario taxpayers warrants recognition as a major reality to be recognized and respected. Resentment of government by an ignored majority is unhealthy for all concerned.

For the sake of the future of Ontario, our elected representatives should feel some responsibility towards the youth of our province. Never before have they suffered from so many handicaps: alcohol addictions at a younger age, drug addictions, school dropout, illiteracy, family breakdown. Many young Canadians are confused. They lack spiritual and moral direction and security. It is well known that those who are raised to develop Christian virtues—and the word "virtue" means strength—become good responsible citizens of our country and good, trustworthy employees in the workforce. We believe the responsibility of our legislators is to encourage youth to have respect for Sunday as a day of worship and re-creation. Commercialization of Sunday will destroy a system which has led to a high development of human potential and civilization. If this delicate system falls, it will take many generations to restore it; the damage may be permanent.

Sunday has always meant family day. Mom and dad are home, there is a change of routine, church services are attended to instruct and direct towards higher values, visits to relations and friends are planned. During the winter in Ottawa we see hundreds of families enjoying skating on our canal and sliding on the many hills around this city. If Sunday becomes commercial, the less fortunate members of our society will have no choice but to work. Less family togetherness weakens family ties and gradually the quality of life deteriorates along with prosperity.

Concerning the present amendment, we observe that putting the onus for reporting abuses on the employee is a serious weakness. The employee is the most vulnerable member in this situation because his livelihood depends on the employer. Sometimes his next meal or rental payment depends on his relationship at work. Reporting an employer to government authorities will surely lead to future discrimination by an irate employer, regardless of how impartial he attempts to be. Is the employee really protected under this weak system? Sunday closing as a way of life eliminates this policing atmosphere.

The dignity of the human person often has taken second place to commercial profit. This is degeneration, not evolution. The elected representatives of Ontario have a duty to enact laws which prevent this. Are we slaves to high profits and taxes or are we builders of a well-ordered, dignified society where the sanctity of holy days can be respected and the desire for material goods can be kept in perspective? Remember, "Thou shalt keep holy the Lord's Day" is the third commandment. Catholics have always been obliged to set this day apart for God. This has served past generations well and has helped bring this nation to a high level of civility. Deviation from this tradition is a foolish adventure which we would deeply regret.

1550

Mr Sorbara: I note here on page 1 of your brief you say, "Our organization was founded in the fall of 1985 by a group of Catholic women from all walks of life who became aware of the changes taking place in our society which appeared to be a threat to life, to our faith and to our families." Obviously, one of those threats is the commercialization of Sunday. What are some of the other issues that your organization is concerned with and is bringing to the attention of government or being discussed within your organization?

Mrs Watts: It is basically the devaluation of the family, the devaluation of motherhood and its importance for all of society and the future of society.

Mr Sorbara: I would not mind you putting in a pitch for fatherhood there as well. I have six kids and I think I have a role to play there.

Mrs Watts: Yes, that is important too, and we would welcome Fathers for Life, Faith and Family as well, but I guess the women are preceding the men in this area for the time being. We as women feel the pressure. I have felt the pressure on my motherhood throughout my life. I was always pressured to continue with my career rather than leave the attractive paycheque and stay home and take care of my children, and deeply I felt that this was really what was most important. It involved a lot of sacrifices and there are a lot of women across Canada making very serious sacrifices in order to put their children and their families first. That is an awful lot of pressure on women, and some of them succumb and go along and abandon their motherhood to others. We see this as harmful to society, as harmful to women, and it is the great contribution that motherhood makes that is taken for granted. Really, we do take it for granted. If it is weakened to the point where it is very seriously debilitated, only then, generations down the road, will we be able to see the consequences. It is very gradual.

Mr Sorbara: I take it from your brief that the Catholic view of Sunday, one with which I am familiar because I grew up in that tradition, should be the norm for Ontario society; that is, that to the greatest extent possible, work activity of any sort should be either discouraged or prohibited. Is that right?

Mrs Watts: To set a day aside to bring us to a deeper understanding of non-materialistic values, to raise our minds above the mundane day-to-day pressures.

Mr Sorbara: I noticed in your brief you said that you acknowledge that certain types of businesses should stay open. Indeed, I think you mentioned the Byward Market as something that we could tolerate on a Sunday. Frankly, I think you are right. If we closed everything, we would perhaps achieve a higher state of real quality of life. The problem for governments is that they pass laws that say everything has to close and then they start to make enormous exceptions and immediately the bill becomes unfair, because if you open the Byward Market, you can buy just about anything that you can buy in any supermarket anywhere in the Ottawa-Carleton area, so the supermarket says: "Hey, what about me? How come I can't stay open?"

How would you suggest that we make those distinctions? Why should the Byward Market be able to stay open and the local Zellers store or the local, I do not know, Cambridge Food Market or the Rideau Centre be required to close? How does government make those choices? How do you make those choices? Why should they stay open?

Mrs Watts: We mentioned the Byward Market because it is open to a great extent, and I hated it to see it expand, because, like I say, six days is sufficient for shopping. Again, with working mothers, they are working five days a week and they can spend their whole weekend taking care of buying and spending again. They do not have that one day. It is a very difficult choice to make and I think we should maybe try to go in the direction of very few exceptions, minimal exceptions.

Mr Sorbara: What exceptions would you make?

Mrs Watts: Necessary things like hospitals and some—

Mr Sorbara: We are only talking about retail. Hospitals are not covered, airlines are not covered, factories are not covered. Factory workers can be called in to work any day of the week, but in the retail area, if you were making the exceptions, what kinds of stores or what kinds of entities would you allow to remain open on Sunday, if any? Maybe you would say none.

Mrs Watts: I would prefer that there would not be any. Maybe specialty stores in hotels for tourists, but at the present time I think there is too much commercial activity in the Byward Market for a Sunday.

Mr Carr: I appreciate your submission here today. As we have travelled around the province, we have heard from different areas of the province that say they are going to open Sundays as a result of the tourist exemption. The numbers change, and after the actual votes are held we do not know, but Windsor has voted to open. Collingwood was 9-0. As I said earlier, the question would be just what percentage of the province will be open. Will it be 50%, 60%, 30%, 70%?

I take it, because so many people feel that way and because you are opposed to Sunday shopping and this legislation will allow large segments to open, that you are not pleased with the bill as it stands right now. Is that my understanding of it?

Mrs Watts: Not completely pleased. It is an improvement. There is some protection, but, you see, we are slipping into forgetting Sunday as a special day, also as a holy day, and tourists should stop and recognize Sunday as a holy day as well. There would be all sorts of activities that could be arranged around that. We do not need to shop on Sunday to make it a special day.

Mr Carr: As you know, during the debate when it went on to open other areas, to have drinking on Sunday and movies and sports and so on open, a lot of the same arguments were made. During that period of what we would call non-regulation, when people were allowed to open during that eight-month period where it was sort of free market, if you wanted to you could, and it was a short period of time, did you see any change in people? Was there a decrease in the number of people going to church

because of the shopping? Or did you see any big change in the way life was conducted during that eight-month period?

Mrs Trudeau: It was not long enough for people to change their habits or their customs.

I think the reason for mentioning the market is that the market has been very deliberately developed and planned as a tourist attraction in a part of the city that attracts many tourists.

What we need to think about is that if society deteriorates, the costs are so terrible in crime, in sickness, in mental illness, it affects everyone.

The other thing is that if you open retail units on Sunday, only people who work in retail units are obliged to work, and my experience is that the people who work in retail units are among the least privileged members of our society. So we are hitting at them once again. They have so many things coming at them.

Mr Carr: One of the things that may happen, for example, as you know, with two members of a family working—I think you touched on this, and motherhood—is that somebody may elect to work Sunday because at that point the father would be home to look after them, rather than having the child or children in day care centres, which are costly, through the week. Potentially you could have a situation where a father would spend time with the child on Sunday and the mother would elect to work Sunday, so theoretically you could have a mother or father spending more time with the children. Do you see that happening?

Mrs Trudeau: You are talking about individuals, but in society things happen according to classes of people. Once again, this mother who has to work on Sunday is working at a job where there are very few privileges. She has to take it the hard way. I think that is a very poor thing to offer to a young family.

Mr Carr: I think some people, in all fairness, probably do enjoy their job in retail. Like everything else, there are some, in a lot of industries, that got into it because it is something that was readily available, but I think some people would still enjoy the retail business. It is a good chance to meet people. So I do not think we should say that everybody is not going to enjoy it.

Mrs Trudeau: Nobody who is very well off and has real choices—

Mr Carr: No, she is basically saying that the only people in retail are the people who cannot do anything else, and that is not the case. Hopefully we would not leave that impression because there are some people in retail who enjoy it.

Mrs Trudeau: Excuse me. The people in our society who have to be thankful for working on Sunday are certainly not being offered very much in quality of life.

Mr Carr: Well, good luck with things.

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Mr Mills: Thank you, Mrs Watts and—I did not quite catch the other one.

Mrs Trudeau: Trudeau.

Mr Mills: I should never forget that. Thank you for your presentation. I thought it was very well thought out. It

was really meaningful to me in the way that you touched in many places here on the quality of family life. The Premier in his speech from the throne and many other times has emphasized that quality of life that we are looking for, partly in this Bill 115.

I share some of the views that you have written in your submission here. I share a view, as I hear the presentations being made, that people are somehow taking second place to commercialism and making money. I am frightened of that.

You talk of the skiers around here in Ottawa in the winter. I live quite near the Ganaraska forest and every Sunday there are hundreds and hundreds of people taking in the simple pleasures of walking through the woods. When I think of the prospect of wide-open Sunday shopping, I think of all those families who will be forced to work and not to walk, and that bothers me too.

I do not really have any questions but would just like to thank you for a very meaningful brief, in my opinion. I am going to take note of many things you said for future debate.

Mrs Trudeau: I wonder if I could make three points. It is just three sentences.

The Chair: It is very generous of you to answer a question that was not put.

Mrs Trudeau: But the question exists.

Mr Mills: I think we are here to make comments on presentations.

Mrs Trudeau: Yes, I appreciate your comments very much.

Mr Mills: Otherwise, I sit here and I do not say anything because I—

Mr Jordan: Is this a question now?

Mr Mills: No. People want to hear comments from members of the government.

The Chair: I think you are right.

Mr Mills: It irks me to say that you cannot say anything unless you have a question.

Interjections.

The Chair: This is unfortunately the case, though, Mr Mills. Mr Lessard brings that up as a point of order. Mrs Trudeau, please.

Mrs Trudeau: Thank you for your comments.

Some time ago, quite a long time ago, my teenaged son was travelling in the United States. He brought home a friend from New York City. When we got up the next morning, the friend was nowhere around. He came in about an hour and a half later. He said: "Oh, it's wonderful out there. I have never seen anything like it. It's so pleasant and so quiet." There were no commercial vehicles about. He was so taken with it. Nothing could have been more of an attraction for him. At the same time, I know that in Florida they already had a large store called a drug-store which sold practically everything and was open 24 hours a day, seven days a week.

Was this government not in favouring of closing Sunday? Did I get that impression?

Mr Sorbara: That was before it was elected.

Mr Mills: We still are.

Mrs Trudeau: There is one other thing. There is only a certain amount of money to be spent, and it will all be spent. I do not see how the volume of business can increase. As for people crossing the border to shop, we have been doing that ever since we had cars.

Mr Sorbara: On a point of order, Mr Chairman: On the interjection of my good friend Mr Mills, I once again raise this point because I am still unclear as to what the proper etiquette is here. My impression was that Mr Mills was participating in these hearings on behalf of the Solicitor General and as his parliamentary assistant.

Mr Mills: Both.

Mr Sorbara: Just let me finish my point. The opportunity to ask questions during the time available for public hearings is shared between our party, the Progressive Conservative Party and those New Democratic Party members who are here on behalf of the Legislature rather than the government, so that Mr Mills could be called upon to make clarifications on behalf of the government or make interjections.

Mr Mills: I do all things.

Mr Sorbara: Could I just ask you, sir, to have a word with the clerk, not necessarily now but at some point before we continue tomorrow, and clarify that point.

Mr Morrow: On a point of order, Mr Chairman: Just on Greg's point, Mr Mills is a permanent member of this group and therefore is sitting as a member, is he not?

Mr Jordan: That would outweigh your numbers.

Interjection.

The Chair: No, it is the same numbers.

Interjection: We do have six members, do we not?

Mr Mills: On the same point of order, Mr Chairman: I thought that in the first week of the deliberations of this committee in Toronto, the first day we sat as a committee, the very thing you are asking now was clarified to a very fine degree. I think Hansard will prove me correct. I do not think we have a copy of Hansard here, but this was debated and the clerk made that decision the first day we sat as a committee. I am very perturbed that it keeps being regenerated when I get to say something, because I think that I am here as a member of the government—I have every right to say something—and I am a member of the committee.

The Chair: Mr Sorbara, the clerk reminds me that Mr Mills is a member of the committee. He is free to ask questions. There are points where, if he is making a clarification on behalf of the Solicitor General, it is then confusing, of course, if he is at a later point asking questions as a member of the committee. So I can understand your viewpoint.

Mr Sorbara: I am just asking for an honest point of clarification. My understanding was that a member did not occupy that dual role, speaking on behalf of the government and participating in the committee. That was my own experience during my time as a minister, but if the rules of procedure of this committee allow someone to occupy both roles and take a position both as spokesman on behalf of the government presenting the bill and as a member of a

committee questioning presenters during public hearings, that is fine. I just wanted a clarification. I find it unusual, but you are the Chairman and we do have rules.

The Chair: I think your point is well taken, sir. I think it is important, at points where Mr Mills is making a clarification, that this be brought out. Do we need to go further on this point or can we call upon our next witness?

Mr Mills: The points of clarification I made first.

The Chair: Thank you, Mr Mills.

Mr Mills: But you do not want to listen.

Interjections.

Mr Mills: I always try to make it very clear what is a clarification and what is not.

Interjection: There is a lot of difference between trying and succeeding.

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KIDDIE KOBBLER

The Chair: Mr Jeffrey Pleet from Kiddie Kobbler is next. Mr Pleet, we have about a quarter of an hour, which will be divided up between your presentation and the questions which I am sure committee members will have for you. Please feel free to start when you are ready, sir.

Mr Pleet: I hope I do not take a quarter of an hour. Thank you for listening to me.

I feel the law should be the same for everyone, no exceptions. When you have exceptions, you have problems. I do not like Sunday shopping. I would have to work it, so no Sunday shopping. Drugstores that can fill prescriptions, necessary places, they should be open.

Government and retail experts say small business is the backbone of the country, yet their thoughts are hard to find because they are busy working in their stores, where I should be today. Most of us are working too many hours already compared to non-retailers. Most non-retailers work between 36 and 40 hours per week. With stores in Ottawa now open 61 hours a week, and in other cities in the province around 69.5 hours, it would seem there is extra time to shop. Years ago people worked more and stores were open less and things got done.

Small retailers must give service and find and train qualified staff. In major department stores we all know you must search for staff to help you. The major grocery stores say it is not fair for small stores to be able to open. We all know the corner stores are there for your immediate needs. The majors want a bigger market share at the expense of small retailers, who combined probably pay more in taxes, but whom you hear from less.

The bill suggests there will be laws to protect workers, but what about the store owner like myself who owns a small business in a major mall? He is forced to open. What happens if he has no staff willing to work? The bill is protecting the workers but not the owners. On August 2, 1991, I was listening to CFRB radio station out of Toronto and an expert was saying that a three-day weekend relieves stress. You never get a three-day weekend in retail if you are an owner, or even a two-day weekend.

During Sunday shopping we lost business on Saturday, so Saturday, Sunday and Monday equalled Saturday and Monday. If there was a gain, it could have been done with no Sunday shopping. How do you do the same work in seven days as opposed to six? Open retail stores on Sunday.

Maybe setting a maximum number of hours a store can be open would settle it, or maybe cause more problems; for example, 65 hours a week. You can open Monday, Tuesday and Wednesday for nine hours, Thursday and Friday for 12, and if you want Sunday shopping, you open Saturday for nine and Sunday for five hours. But then again, you are going to run into more problems.

1610

In this bill, what holidays are they talking about in clause 4.2(d)? Why not open Christmas Day? We would have everyone off but the retailers. I really feel strongly that Quebec has a great advantage over us in this neck of the woods here. In Quebec they open Boxing Day and close January 2. They get the business right there. They open Good Friday and close Easter Monday. Why? Because those are better retail days.

If you were a tourist, why would you go to a market to buy food on Sundays? Why go to the Byward Market in Ottawa? Shopping centres are not tourist areas. If one is allowed to open, then all of them should. The shopping centres will be happy I said that, but I do not think any of them should be open.

When Sunday shopping happened in Ontario, the merchants in the Byward Market lost business. That tells me that it was mainly Ottawa people shopping before. Those were people who were not retailers but who could find no time to shop during the week. Now that there is no Sunday shopping, those retailers are not complaining because they got their extra business back. Major malls want to open because it does not cost them anything; the tenants pay most of the operating costs. If I as a small merchant in a shopping centre do not open, the mall will fine me. I hope all the people who broke the law and have been found guilty have paid their fines. The fines should be substantial—at least a day's receipts or more.

I have two stores. When Sunday shopping happened, I was only able to open one consistently because I did not have staff. One day I had to open one of the stores with myself and my three-year-old son. I am the boss. I have to be there. If I start something, it has to get done. I am sure there is a law against a three-year-old son working in a store, but—

Mr Klopp: They want that.

Mr Pleet: Who wants what?

Interjections.

Mr Pleet: I do not know who wants it. All I know is that Michael—whatever his name is; M. Farnan—has been fired. Does this mean his work is not satisfactory, and why are we discussing it? So I do not know; I just do not want Sunday shopping at all.

Mr Mills: Am I hearing things?

Interjection.

Mr Pleet: M. Farnan, or "Honourable," I do not know his right title. Thank you. I am done.

Mr Sorbara: It was an absolutely refreshing presentation. Do I understand your position to be that there should be one rule for everybody?

Mr Pleet: One rule for everybody, but always you find exceptions. When you read this you find exceptions. I am thinking of a corner drugstore. You go to the emergency in the hospital, you have to find a drugstore for medicine. I am talking about how you need medicine at 3 o'clock in the morning or you need it Sunday afternoon for a child. There are businesses out there that should be open. I am not talking of a Shoppers Drug Mart. Loblaws is mad at Shoppers Drug Mart because they carry some grocery stuff. Loblaws wanted to be open because Shoppers Drug Mart is selling some cans of Coke or something. That is what I am talking about. I am talking prescriptions, necessary items.

Mr Sorbara: But if we decide to open Shoppers Drug Mart or drugstores, and the Byward Market and the stores that can put a tourist front to the world on Sunday, then should we let everybody open?

Mr Pleet: No. What I am saying on the Byward Market is that when you go travelling—I do not know where you are from, but you come to Ottawa and you are a tourist. How often are you going to go buy a head of lettuce? Are you going to go buy hamburger meat? It is very, very unlikely because you are either staying in a hotel or—

Mr Sorbara: Yes, but I might want to buy shoes for my kids.

Mr Pleet: You might want to buy shoes for your kids, but there are another six days of the week that we have always had. I think that in those six days things can be done. I would like a common pause day. It gives me a breath of fresh air. For a year I did not know what I was doing. All I knew was I was opening a store and Saturday night, instead of saying, "I'm going to be back here 8 o'clock Monday morning," I said, "I'm going to be back here at 11:30 Sunday and make sure the staff shows up and make sure everything is open."

Mr Sorbara: Is your store in a mall?

Mr Pleet: Yes.

Mr Sorbara: Were you required by the landlord to open?

Mr Pleet: I was not required, but it was suggested that we open. One, I had to maintain sales. I was losing sales Saturday afternoon. I was going home Saturday afternoon, and my wife had never seen me come home Saturday afternoon at 4 o'clock. I was sitting in the store doing what I am doing right now, twiddling my thumbs. There was no business Saturday, but all of a sudden on Sunday—the people who had come Saturday afternoon were coming Sunday.

Mr Sorbara: So you stayed open on Sunday to maintain a share of the market?

Mr Pleet: Right.

Mr Carr: We were up in Collingwood a week or so ago and one of the things they said up there is that they are a tourist area. As you know, they get people from the Toronto area who have cottages. What they were saying is

that people will not shop for a head of lettuce any more, will not buy an extra head just because they are opening on Sundays. But one of the things they say is that people will go up there and those same people who would spend the money from Toronto in the community of Collingwood, go out and buy the hamburgers or the lettuce or whatever on Sunday, if they are not open will go back to Toronto and not spend any more. They want it to be spent in their community as opposed to Toronto, because they have been hit by a lot of problems and tourism is the number one area. Do you think places like Collingwood should have the tourism option there? Just for your own information, they voted 9-0 on council for that, to have and be open as a tourist option. Should they have some type of tourist exemption for areas like that which survive on tourism?

Mr Pleet: I think when you have tourist exemptions and you do that, you are going to spread yourself. I do not know how far Collingwood is from Toronto, but there might be a community 10 minutes or 15 minutes down the road that is going to say, "Collingwood has it; we want it." Then it is going to go 15 minutes down the road and all of a sudden you are going to be in Toronto and Toronto is going to be wide open.

I have said for years—I am in the children's shoe business—why is there a different tax structure on children's shoes in Ontario than there is in Quebec? I lost business for years because people used to go across the border. Nobody ever listened to me. We sent letters. For years things have gone back and forth in the shoe industry just by taxes.

I think once you start giving a little, if you cut up a piece of the pie, you are going to run into problems all over.

Mr Carr: One of the things some of the communities are saying is that if you left it up to the individual stores—and I will use the example of Collingwood where during that eight-month period when it was wide open, virtually unregulated, there was still a large percentage of stores that decided not to work because the owner decided not to. Of course, there are other people who say there is too much pressure and they lose business. But during that period a lot of them did not think they would lose the business. They said, "I'm not going to choose to do it, but if Joe Blow next door wants to do it"—

What do you say to that? Do you think that would work or is that unworkable?

Mr Pleet: I am in a peculiar position. If you go to most major malls, there are major tenants and they have supervisors or managers and they can manipulate their staff. I am a franchisee, and a franchisee usually works in his store. The McDonald's guys work in their store. All of them work in their stores. Any franchisee type will work in his store. You have to have a manager if you are going to provide the quality of service that people now say is lacking in Ontario or anywhere in retail in Ontario or Canada. We are providing it. We are trying. We are a small business trying to provide it. As I said, the majors do not provide it, so they do not care. We are trying to provide that service. It is pretty difficult to provide that service. Can the banks be open?

Mr Sorbara: Yes, they are.

Mr Pleet: They do not open. They have an automatic teller.

Mr Sorbara: They are all open with their machines.

Mr Pleet: But that does not help me. I am a business. I am trying to do it.

Mr Sorbara: I appreciate that, but virtually they have overcome the Sunday shopping problem with technology.

Mr Morrow: Thank you for coming here today. It is so refreshing to see an individual come and make his or her own thoughts known. We will take that back. We are trying to set up some guidelines as to the legislation.

What does it cost you to open on a Sunday?

Mr Pleet: Basically staff and hydro. Most of those costs are built in, so it is staff. But if I am not there and have hired staff—and usually nobody is better than the owner in the store. That is debatable, but nobody is better, let's say, than I am. If they lose sales and they go down the block, because I cannot split myself in two, I have lost sales, I have lost managers who cannot work. So who knows what the costs are.

Mr Morrow: Do you feel you are missing out on the market share if you do not open on Sunday? What if everybody did not open on Sunday? Would your market share then be secure over six days instead of seven?

Mr Pleet: Could not open on Sunday?

Mr Morrow: Yes.

Mr Pleet: Yes, my market share would stay the same. I think even if you open on Sunday, your market share is not going to change. It is going to just be spread out and your costs are going to go up.

Mr Morrow: Obviously, when everybody opened on Sunday you said you also had to open on Sunday.

Mr Pleet: Right.

Mr Morrow: Do you want to work on Sundays?

Mr Pleet: No.

1620

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON

The Chair: We now have a presentation from the regional municipality of Ottawa-Carleton. Mr Rick O'Connor is the barrister-solicitor with the regional municipality. You have approximately half an hour. Usually that is divided between your presentation and questions from the committee members, who I am sure will have a number of questions. Please proceed when you are ready.

Mr O'Connor: I have known Jeff Pleet for a number of years. I hope I can be as candid as him, but unfortunately in my position that is unlikely. I advise this committee that I am attending on behalf of the regional solicitor this afternoon who sends his regrets and is unable to attend.

On August 6, 1991, as most of the committee can see in the information before them, the executive committee of the regional council accepted three recommendations with regard to Bill 115. I am here to try to explain that and, I hope, to try to put it in the context of Ottawa-Carleton for this committee. In doing that, I will try to be brief, but again, as a lawyer, that is sort of a death knell for most people.

As you can see, the first recommendation is to advise that the council of the regional municipality of Ottawa-Carleton has consistently been opposed to wide-open Sunday shopping in its jurisdiction. Again, as I said a minute ago, I hope to put this in the regional context for you. In doing so, what I have done is set out some of the chronology and intersperse it with the provincial events, the jurisprudential events that have interrupted this legislation throughout the past decade, and also in the regional context.

The initial act for the province, which I believe began about 1976, set out a tourist exemption under subsection 4(2). That is listed in the chronology I have given. Basically it says, "Where it is essential for the maintenance or development of a tourist industry," a municipal council can pass a bylaw. Then there are a number of conditions. That was, to my understanding, the first piece of legislation in Ontario.

Following that, on March 9, 1983, regional council, pursuant to a request by the council of the corporation of the city of Ottawa, passed a tourist exemption bylaw for the Byward Market. This committee has heard it discussed in great detail and I will not spend any more time on it. Mr Sevigny was here this morning discussing it and other possible tourist zones for the city of Ottawa. That was under the initial legislation.

Following that, in 1986, in the case of *Edwards Books* the Supreme Court of Canada upheld the constitutional validity of that particular piece of legislation. Also, that was the year regional council re-enacted that bylaw with regard to the Byward Market. The temporal time limits on it were from approximately April to November, and what they did was they made it year-round that year, in 1986.

Subsequent to that, of course, in February 1989, there were major amendments to the act which deleted this initial tourist exemption and now brought us up to what we have today as the municipal option.

Having said that as background, note that on April 12, 1989, about six weeks after the legislation was passed, regional council resolved to take no action to enact any bylaw to permit additional Sunday shopping under this new amended act. The resolution was carried, subject of course to the Byward Market. The region and the local municipalities recognized its importance to the tourist industry. That was, as I say, the first time they discussed this.

Later on that year, in August 1989, regional council had a request from the Westboro business improvement area. That is an area within one of the wards in Ottawa. They wanted to remain open for one day, a Sunday, for what was called the community's Village Fine Arts Festival Weekend. Regional council took this as an opportunity to say that it was not in favour of wide-open Sunday shopping. Even in that instance—again, I think they were afraid of the floodgate syndrome—it decided it would not allow the exemption.

Moving on to December 1989, a few months later, executive committee—I should add that that is the board of control for the region, which has authority to deal with applications under the Retail Business Holidays Act—rejected a request by A&P Ltd to open its four stores on holidays in the Ottawa-Carleton area.

Further to that, the following month, January 1990, executive committee deferred a request for an exemption

by Miracle Food Mart/Xtra Food and Drug Centres—they were two large pharmacies in Ottawa-Carleton—to remain open on holidays. The reason they did that at that time was we were well aware that the Supreme Court of Ontario—the High Court of Justice—was going to hear the Sunday shopping constitutional case in the coming months. Also, the regional solicitor's office was looking at putting together a regional plan for setting down criteria for applicants with regard to exemption bylaws, pursuant to subsection 4(7) of the act.

I think this committee is well aware in June 1990 Mr Justice Southey ruled this act unconstitutional and we had wide-open Sunday shopping. Now, a scant two weeks after that, on July 11, 1990, regional council, for the second time, reaffirmed its opposition to wide-open Sunday shopping in Ottawa-Carleton and in fact requested area shopping centres to keep their doors closed on Sundays and also called upon the provincial government to act.

The following year, in March, the Ontario Court of Appeal overturned Mr Justice Southey in what I think is an important 5-0 unanimous decision and upheld the constitutional validity of this act.

Seven days after that, regional council, for the third time in three years, reaffirmed its previous decision that stores will remain closed in Ottawa-Carleton and that the provincial government, the new government, assume responsibility for enacting such legislation, as was part of its election platform.

That, I think, sets the regional framework for you. It might perhaps have been better to do this at 9 o'clock this morning. I apologize for that. Unfortunately, we had some problems.

I think it is clear when you look at this background from the region's point of view that in 1989, when the act was amended, back in 1990 when the act was struck down, and again in 1991 when the act is resurrected by the Ontario Court of Appeal, regional council has been consistent that it has been opposed to wide-open Sunday shopping in Ottawa-Carleton. It has done this with applications from major food stores like Miracle Mart and A&P and, alternatively, by a small community festival. That, I think, puts better into context its first recommendation that it would like this committee to understand.

The final two recommendations are actually alternatives, and that is that the proposed Bill 115 be withdrawn and the status quo be maintained with the addition of any expressed exemptions, such as trade shows or flea markets or whatever the public, through the consultation process, deems necessary, or that the proposed Bill 115 be revised so that the current mandatory regulations be drafted in the form of optional and unofficial guidelines, thus enabling municipal councils to better determine what a tourist exemption is.

With regard to the first recommendation, I would like to submit that the proposition by regional council is not unlike the old adage, "If it ain't broke, don't fix it." Again, I remind the committee that the Court of Appeal, in a 5-0 decision, said this legislation is constitutionally valid. In fact, I think they indicated that it was better than the previous legislation.

As the committee knows, the current act provides for a municipal option which is an unfettered right on municipalities to either allow shops to stay open on Sundays or

demands that they stay closed on Sundays. In Ottawa-Carleton, we have only passed one by-law, and that was at the request of the local municipality. That was the Byward Market, which you have already heard about.

In the light of all that, I was going to go into how the Byward Market came about, but I do not think I will bore the committee with that at this time. In any event, the region is happy. It had some difficulty, I admit, adapting to the February 1989 amendments. They have since done that. They have looked at that and they feel that the municipal option is something they can now, at this point, live with.

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With regard to the executive committee's alternatives and final recommendation, I can advise as follows. What is perceived by the executive committee as to what will be the problems that will arise from this legislation are largely found in the regulations, and I am sure this committee has heard this ad nauseam over and over again, specifically being: What are the tourist criteria that municipalities are going to have to deal with? Without going into unnecessary details—and I know this is not a legislative drafting committee—terms such as “historical or natural attractions,” “cultural or ethnic attractions,” as well as “hospitality services,” would seem to be somewhat vague and perhaps unclear, and will result in varying definitions throughout the province.

Furthermore, there would seem to be some problem with the requirement—and I know this committee has heard from chambers of commerce and various tourist bureaus—that they give their approval or sign a letter of approval for an applicant. In this regard, what we perceive from the legal perspective to be a problem is if an applicant goes forward, does not get that letter of approval—and the regulation, if I understand it correctly, says, “shall have,” it is mandatory, and then it cites paragraph 4, says, “a letter of approval”—we go to council, council says, “Oh well, we believe it's a tourist zone anyway,” passes the bylaw, what we are going to have is some disgruntled group out there who will say, “No, I don't believe in Sunday shopping.” They will bring an application to the Divisional Court. I am fairly certain the Divisional Court will read into that that it is a mandatory regulation, a regulation being a law of the land; we have not adhered to it, and therefore the whole bylaw is thrown out. That type of administrative problem is something that we foresee and do not really want our councils dealing with.

Furthermore, it is suggested that the passage of mandatory tourism criteria in the form of regulations to the act unduly complicates and, I think, rigidly formalizes the application process and, indeed, requires municipal councils to act as quasi-judicial tribunals. I do not want to bore you with legal principles as I am sure you are all aware of them, but the principles of natural or fundamental justice, *audi alteram partem*, and bias would all be invoked in this process, and for every application a municipal council would have to adopt these particular principles, which I do not think is what the Supreme Court, in its most recent decision on municipal councils, had in mind at all.

In addition, the prospect of descending, as I said, such decisions before the courts would result in the matters

often being determined by the judiciary as opposed to the elected representatives, who, I think, the legislation deems the party that is supposed to resolve this matter. Alternatively, even if a municipal council could find its way through what I call “the proposed maze of tourism criteria,” there is no guarantee that the decision that is subsequently arrived at is the one that reflects the desires of the local community. For example, a local community—and that is why we have put in the terms “trade show” or “flea market”—may not, and I have not gone through the academic exercise of looking at this, particularly fall within the criteria that have been set out in the regulations. However, the community may, over a period of time, have accepted that, and it may have told its local council, “This is what we want.” In any event, you would then have, again, a disgruntled group coming forward, trying to strike down a bylaw that the community is happy with but may not fit the exact definitions set out in the tourism criteria.

In effect, the establishment of uniform criteria province-wide may remove from the local council its authority to determine matters solely on the basis of a policy or the accepted community standards. This is not to say that the criteria that have been set out even at this point in time are not of any assistance, and that is quite to the contrary. It is suggested that some of the criteria expressly set out in the regulations are of assistance in guiding municipal councils with regard to what is a tourist exemption. Nevertheless, it is held that this delegation to the local authorities would be best served by enabling municipal councils to pass bylaws not unlike what would be the former subsection 4(7) of the current act, and that is that we can set out our own bylaws where we will set out procedures, fees and our own criteria that each area could deem to be its most important facets.

As committee members have said on a number of occasions today, they have been in northern Ontario, Toronto and eastern Ontario, and I am from London in southwestern Ontario. I am sure you will find different reactions everywhere you go, and clearly the criteria that are important to us are not going to be those that are important to Windsor or Sarnia or even somewhere in northern Ontario. As such, the criteria and the regulations, we would hope, would be removed from the regulations and perhaps put in a draft bylaw which could be distributed to the municipalities and adapted accordingly to whatever they prefer.

Subject to any questions, those are my comments.

Mr Daigeler: I will make it very quick. Thank you very much for appearing before the committee. It is rather good to hear that you are supporting the wisdom of the Liberal legislation, even though there has been some change in the viewpoint of the Ottawa-Carleton region, as you indicated yourself.

I would like to ask you about the change. In terms of the division on regional council itself, has it basically been the same? Is it the suburbs against the city of Ottawa or is there a particular pattern that has been established or that has changed over time?

Mr O'Connor: I am not aware of any particular voting pattern with regard to the reaffirmation year after year of regional council's opposition to wide-open Sunday shopping.

If I could explain briefly how the city of Ottawa came to get the Byward Market, it may be of some assistance in this committee.

What developed in Ottawa-Carleton was almost an informal process whereby local municipalities would debate the issue of Sunday shopping first and then if they deemed an area that they wanted the tourist exemption they would come to regional council and present their proposal.

In doing so, the city of Ottawa already had the Byward Market under the old legislation. In 1986 when they wanted to expand it from the temporal limits of the summer to all year round, what they did was debate it at local council, then they went out and got a consultant. The consultant then went around and spoke to all the merchants in the Byward Market who would be affected. In addition to that, it surveyed, I believe, 12 community associations and various business associations, including tourist boards and the chamber of commerce, and in addition to that did a phone survey of some 300 residents across the city.

Having all that data in front of them, they sat down and debated it again and decided they were in favour of expanding the market to a year-round proposition and then brought it to regional council. I do not recollect what the exact vote was on that. I apologize, but I do believe the vast majority of council had no problem with that process.

M. Sorbara : Est-ce que je peux vous poser au moins une question en français ? Vous êtes confortable ?

Mr O'Connor: I am afraid I do not speak French, Mr Chairman.

M. Sorbara : Nous avons ici un service de traduction. We have a translation service. Je pense, Monsieur le Président, qu'il faut au moins poser une question et participer au débat dans les deux langues ici dans la ville d'Ottawa.

Interjection.

Mr Sorbara: Okay, then I will just place my question in English, although I would have hoped that we could have had more of this discussion—

The Chair: Is there is a problem with the translation?

Mr Fletcher: I think he was getting the ball game.

Mr Sorbara: You had better watch out, my friend, about making comments about ball games during parliamentary hearings.

J'ai une question simple pour le monsieur. Est-ce que c'est vrai que, pendant le débat sur le projet de loi 113, c'est-à-dire le projet de loi libéral, en 1989 la région d'Ottawa-Carleton était fortement contre le projet de loi ?

Mr O'Connor: Yes, that is my understanding of it at that time.

M. Sorbara : Et maintenant, après deux années d'expérience, elle est fortement prête à prendre les responsabilités des municipalités sous les prévisions du projet de loi 113.

Mr O'Connor: Yes, that is also true.

Mr Carr: Thank you for coming to appear before the committee. I agree with a lot of what you have said. We have heard from some of the municipalities that regardless of what decision they take, whether they are in favour or opposed, there are going to be those groups that say, "You

didn't interpret it right," and that what is going to happen is we are going to spend a lot of time in the courts.

However, there was some disagreement among the municipalities. I was interested in point (b), where it says that the proposed Bill 115 should be withdrawn. It would seem that the municipality in Ottawa and Carleton does not want to deal with it. In North Bay we had the mayor who said that he did not want any TBSs, which means Toronto-based solutions, and that he would like to decide in his area. When we went to Thunder Bay they said, "We would like to make the decisions up here, regardless of what way we go." Ottawa-Carleton is one of the few regions that seems to not want to have a base solution in this area. I know you touched on a little bit of what the reasoning is for that, why you see the rest of the province saying, "We don't want any Toronto-based solutions; we'd like the municipalities to decide," and yet Ottawa-Carleton seems to be going off in a different direction.

Mr O'Connor: I am not certain as to the terminology of Toronto-based solutions. Maybe we do not get these out in eastern Ontario.

Mr Sorbara: I am sure Toronto would want to send you a few.

Mr O'Connor: But with regard to that, I think some of the committee members have been right in their questioning that Ottawa-Carleton has somewhat reversed itself after dealing with the municipal option and has been able to grasp on to it.

What I think we have looked at in Ottawa-Carleton more seriously now is the regional plan proposed under what would be the former subsection 4(7), which says that we can set our own criteria. I think that is something we have looked at. We would very seriously review the regulations and the criteria set out in there, but I am not certain that that is necessarily a Toronto-based solution or that it takes anything away from the municipality itself dealing with these questions.

Mr Carr: That is helpful. The other question relates to that. As you know, the big question that has come up is the tourist exemptions. They are so broad that any municipality could interpret them to be open. There is virtually no part of the province that could not be open. I just wanted to see what your thoughts were on that. I know the ideal situation you would like to see, but what is your feeling on the tourist exemption? Are they too broad or are they too narrow?

Mr O'Connor: Again, speaking for myself, I do not think that regional council has a position on this yet, but from my own point of view as an administrative law lawyer, I think they are arguable either way and they are probably a lawyer's dream and a politician's nightmare in that respect.

Mr Sorbara: Lots of work for lawyers, as the former Attorney General said.

Mr O'Connor: Exactly.

1640

Mr Carr: One of the questions that came up with other municipalities is that a lot of the police forces are spending a lot of time going to the municipalities over the

decision of who is going to open. I think one of the solicitors in Muskoka said that he spends a lot of his week dealing with the police because whoever decides to open illegally, its competition calls them up and says, "Did you know XYZ is open?" He spends a great majority of his week dealing with the police. Is this your situation as well? Do you spend a lot of time doing that?

Mr O'Connor: No, as a matter of fact, we are the only region out of a dozen regions in Ontario that does not have a police force, so what happens is that this becomes a local police issue. That in itself does cause some aggravation, because the region has the ultimate say in this and then the local municipalities have to deal with the policing and enforcement of it.

Mr Carr: Okay, thank you. Good luck.

Mr Mills: I thank you for your presentation. I would just like to ask you about point (c), "that the current mandatory regulations be redrafted in the form of optional guidelines, thus enabling councils to better determine." Tourism Ontario went to great lengths with consultation with many bodies, its own body, all over the province and I believe all over North America to come up with that draft regulation for what are the tourist criteria. It was not easily arrived at and it was arrived at through consultations with the so-called experts in the field.

My question is then, first of all, do you like the draft regulations or do you see how they can be improved or what do you want put out or what do you want put in? I am a little concerned that the municipal council says it will better determine when the criteria have been set in such a manner that it will assist the councils in Ottawa here, in London, in North Bay, all over. Those criteria are a common thread to assist councils in arriving at a decision. To say leave it to the council to better determine takes away from what these regulations are trying to do.

I suppose, as the parliamentary assistant to the minister, I am particularly interested in what you see can make it better and what we should take out that you do not like. I know time is short. Thank you, sir, if you can say that.

Mr O'Connor: In 30 seconds or less, I apologize for that wording if it brings the committee some trouble. What we were looking at, again, is more of a regional perspective, the simple fact that the criteria seem to be so broad, that perhaps we do not want it that broad. I liken the situation again because—we run into this problem—it is going to allow all sides to attack it in litigation form, and that if it was more restricted—

What we are suggesting is that there be some sort of guideline we can adapt as our own bylaw. I do not know how feasible that is, and I know that putting optional bylaws in front of municipalities may not be the best solution, but we think it would be able to geographically assist us better because we are not looking at the same situation as Windsor. I know they have a bylaw that now says they are wide-open Sunday shopping. From our brief history dabbling in this, that will not be coming to Ottawa-Carleton, if that can be of some assistance to the member.

Mr Kormos: I appreciate that you have come here with these recommendations, but I confess I have always

found very interesting that the council or the municipality "may by bylaw permit," but then the next subsection, of course, says that it "shall" consider. What that does in my mind is avoid the argument wherein some courts have permitted the word "may" to mean "shall" in various circumstances, and other times "shall" to mean "may." But here, since the two words are used in consecutive subsections, do you see some issue with the fact that, notwithstanding the guidelines, notwithstanding the regulations, we still have what may well end up being merely a discretionary power on the part of a municipality?

Second, one of the concerns a whole lot of people have had is the lack of review procedure, and that is to say an applicant may well feel aggrieved, or members of the community feel that their municipality conducted itself inappropriately in granting the exemptions. If there is that review procedure, where should that be to?

Third, the distinction between those parts of Ontario wherein city councils which, I think most of us will agree, have a different fibre to them, a different character from regional councils. In some parts of the province without regional government it is municipal councils that make decisions; in other parts it is regional councils like here in Ottawa-Carleton, like Niagara region. As you know, or as you may have been told by some people who are cynical about that, there is often really regional interests at play and some thrust and parry between those regional interests. I put that to you. I would appreciate your comments on those, if you feel comfortable.

Mr O'Connor: Again, speaking just on my own behalf and perhaps more as a municipal lawyer than as a representative of the regional council, in looking at the legislation as it is drafted, I think any time you have a delegation to a local municipality in this respect you are going to get people challenging it, particularly because subsection 4(7) says that "The council is not required to pass the bylaw even if the criteria are met." I think that will be one of the first challenges. Someone who goes through all the hoops is going to say, "Look, I did everything you told me to do and now you're telling me that you don't want it anyway." I think that raises the first administrative law problem.

With regard to the "may" and "shall," as I think the honourable member knows, there are always problems in courts. They will define a man a woman and a woman a man if they get the opportunity to, and they have done so.

With regard to whether there is any sort of dichotomy or controversy between cities, city councils themselves and regional councils, I think this committee would know better than I, as it has heard from more of them. I decline to respond any further on that matter.

The Chair: Thank you very much, Mr O'Connor. You answered a couple of difficult questions very succinctly and we very much appreciate your attendance and your information.

Mr Sorbara: Mr Chairman, just before we adjourn for the day, might I do two things: first of all, apologize to you for my outburst about your chairing of the committee, and

request that we have about a five-minute in camera session before we adjourn for the day.

The Chair: I imagine that would have the agreement of the other members.

Agreed to.

Mr Morrow: Just before we go in camera, I would also like to thank the city of Ottawa and the region of Ottawa-Carleton for allowing us to be here today.

The Chair: Yes, that is an excellent point, Mr Morrow. I would like to extend my thanks to the city of Ottawa for its hosting of our delegation today and to the many people who have appeared before us from this area. We are now in a very short recess to have a short in camera session here.

The committee continued in camera at 1653.

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Tuesday 13 August 1991

Standing committee on administration of justice

Retail Business Establishments
Statute Law Amendment Act, 1991

Assemblée législative de l'Ontario

Première session, 35^e législature

Journal des débats (Hansard)

Le mardi 13 août 1991

Comité permanent de l'administration de la justice

Loi de 1991 modifiant des lois
en ce qui concerne
les établissements de commerce
de détail



Chair: Drummond White
Clerk: Lisa Freedman

Président : Drummond White
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Tuesday 13 August 1991

The committee met at 0905 at the Holiday Inn, Kingston.

RETAIL BUSINESS ESTABLISHMENTS STATUTE LAW AMENDMENT ACT, 1991

LOI DE 1991 MODIFIANT DES LOIS EN CE QUI CONCERNE LES ÉTABLISSEMENTS DE COMMERCE DE DÉTAIL

Resuming consideration of Bill 115, An Act to amend the Retail Business Holidays Act and the Employment Standards Act in respect of the opening of retail business establishments and employment in them.

Reprise de l'étude du projet de loi 115, Loi modifiant la Loi sur les jours fériés dans le commerce de détail et la Loi sur les normes d'emploi en ce qui concerne l'ouverture des établissements de commerce de détail et l'emploi dans ces établissements.

The Chair: I call our meeting to order. We are having hearings in regard to Bill 115, the Retail Business Establishments Statute Law Amendment Act.

Before we start, I would like to comment upon a point that was brought up yesterday. I think that during the course of our proceedings the time for questions will be divided among the three parties. If a member wishes to take the entire time of his caucus, he may do so. That is a problem between him and his colleagues. However, if he wishes to take time from another caucus, he is obligated to ask them. And it is not my obligation to ask others, but rather that individual's obligation to do so. I will attempt to remind people, where possible, of the time limitations, but it is your obligation to be aware of it, not mine.

HELEN COOPER

The Chair: Our first witness is Mayor Helen Cooper, the mayor of this fair town. We have a half an hour or so, Mayor Cooper. Please divide that time as you wish. I am sure committee members will have many questions for you.

Ms Cooper: I have prepared a brief written presentation which I will read as quickly as I possibly can, and certainly welcome any questions as a result of it. I apologize. I cannot give you copies because this came off the press about five minutes ago and there is some proofreading required. As soon as I have done that, we will prepare more copies and deliver them in the course of the day.

This presentation is purely my own. It does in no way claim to represent the opinion of the corporation of the city of Kingston or of any other members of the council.

The original Sunday shopping debate, which occurred across the province at the time of proposed legislation by the former Liberal government, was a relatively quiet one in the Kingston area. There was an apparent overwhelming consensus among retailers in not only the city but also the surrounding townships that there should be universal Sunday

closing. No one business or group of businesses at the time made any formal attempt to seek special consideration. Hence, the bylaw adopted by the municipality and agreed to by our neighbours—and by our neighbours, I mean municipalities as far away as Trenton and Belleville, who were also interested in what we were doing—was one which respected the status quo. Hence, all businesses which had previously been eligible under the Retail Business Holidays Act continued to be allowed to be open. All others were to remain closed.

When the law was struck down by the courts, allowing wide-open Sunday shopping in the province, several retail establishments did take advantage of the new circumstances. One major shopping centre in the area, but not in the city, chose to be open. However, not all the businesses in that centre were open. In fact, over time an increasing number chose to remain closed. I was out there in the dead of winter on one occasion. I could easily attest to the fact that probably only a third of the businesses at that point were choosing to be open. The largest shopping centre in the city itself, which is also a regional centre, chose to remain fully closed, except for those Sundays which immediately preceded Christmas. In the downtown, the majority of businesses still remained closed. However, a few small specialty stores took advantage of the situation, particularly last summer. They are businesses which are in the area where there are extremely large pedestrian movements all days of the week, but particularly on the weekends.

At this point, if you turn and look out the window, I would point to you as exhibit A the very area which I am referring to. These, on the whole, are stores selling specialty items and clothing. They have small square footage, except for the S&R department store, which is one of the few remaining independently owned department stores in the province.

0910

Since the election of the current government, the legislation passed by the previous government has been re-established. There have been, until recently, no businesses in this city which chose to consciously break the law. However, in April of this year, city council did receive a request from the BIA which represents businesses in the downtown for permission for unrestricted Sunday opening in the downtown exclusively. The arguments used related to the fact that the retail industry had been suffering severely through the current recession, and that certain businesses in the downtown were able to benefit from the high incidence of visitors and tourists who stroll in this very area, particularly on the weekends.

City council subsequently held two public meetings. The first, held on June 20, was co-sponsored by two of the neighbouring municipalities, Ernestown and Pittsburgh townships, to seek public opinion for the issue of Sunday

shopping in the area in general. The second public meeting, held on July 2, was specifically to address the request of the BIA.

There are, no doubt, very strong opinions on the issue among the public at large, those people who manage and work in the retail sector, and among the members of city council. Although the application to remain open came from the board of management of the BIA, which is elected from among its own members, there were definitely expressions of dissent from some BIA members to the application. Furthermore, there were also expressions of dissatisfaction from the managers of the major shopping centres, stating that the city was showing a certain unfairness in considering one area as opposed to considering the application of all retail areas in the city. The point I should emphasize however is that the request itself was generated from a specific business community.

Council, by an extremely close vote, did decide to allow Sunday openings in the BIA. It has not received any requests as yet from any other retailer or any other retail area. Sorry, that is not quite true. It has received a request from S&R.

Council chose to proceed under the terms of the proposed legislation, thinking that would cause as little disruption as possible once the new act is imposed. Hence, it has restricted opening to businesses of 7,500 square feet or less, with eight or fewer employees, and that is why S&R has put in a separate application, because it does not fit under that criteria. It has also recognized that the new legislation requires that a business area, in applying for exempt status, must prove itself a so-called tourist area. I would suggest that the BIA in Kingston easily qualifies on all counts that have been listed in the proposed regulations. Other retail areas in the Kingston area, however, would probably have more difficulty meeting these criteria.

I would wish to make the following comments: First of all, it appears that the proposed legislation has taken us right back to the beginning in terms of requiring a tourist exemption for Sunday opening. I did hear the previous Solicitor General, Michael Farnan, who introduced this legislation, announce that this time the problem of the previous legislation had been addressed in that criteria had now been established to define a tourist area. May I suggest that this concept is as flawed now as it ever was. The basic problem seems to me that neither this legislation nor any of its predecessors in any way defines a tourist. I would further submit that is impossible to do. Is a tourist somebody who has travelled more than a certain distance to that shopping area? Is a tourist someone who is travelling solely for pleasure, as opposed to conducting some form of business simultaneously with a car trip? Is a tourist somebody who is in the area for two hours or must be there for some form of time limitation? Is a tourist someone who comes to the community because he or she is participating in a particular sporting event? I have been engaged in discussion of the definition of tourist on many occasions in the past with people familiar with the hospitality sector. Never have any of us been able to define a tourist satisfactorily.

This legislation then purports to suggest it knows what tourists want once they get to a certain place, ie, they wish to shop only in retail businesses that are in historic areas or they wish to shop only on occasions when there are specific events or festivals. I expect if you were to canvass the people currently staying in this very hotel, many of whom we would think were probably tourists, you would find many of them were interested in engaging in the activity of shopping and would wish to do so in one of the local malls as opposed to the downtown with its historic buildings. Therefore, this legislation proposes to define an industry which is virtually impossible to define and then goes on to suggest that it knows what people who engage in the activities of that industry choose to do.

The other point I wish to bring out very clearly is that there is no homogeneity in the retail industry. It became very obvious to me in the presentations that were made in our public hearings that people work within the retail sector in very different circumstances. At the dangerous expense of generalizing, I feel reasonably confident in offering the following premise:

The circumstances of people who both manage and are employed in the chain store operations which occupy most of the space in the large malls are working under quite different circumstances from largely owner-occupied businesses in the downtown. In the former case, there is a great deal of pressure on management to work Sunday to be in constant supervision of operations. There is also, I would suggest, greater difficulty in ensuring fair working hours for employees. In the owner-managed businesses in the downtown, there seems to be more flexibility in being able to recruit staff and avoid the problem of forcing people who do not wish to work on Sunday to do so.

One has to be particularly careful, however, in examining the situation in Kingston because Kingston has such a large student population, both at Queen's University and St Lawrence Community College, for whom the extra working hours on Sunday are quite welcome, as student summer employment has been extremely difficult to obtain recently. I know there has been a great deal of mistrust of those owners in the downtown who have claimed they have not forced people to work on Sundays. However, the results appear to bear out their claim fairly clearly.

Hence, for certain businesses to adhere to the proposed changes in the Employment Standards Act represents very little if any problem. For others it may well be more of a problem and it may also be a case where employees would feel indirect pressure to remain at work perhaps seven days a week. I would again point out that the structures and philosophy of the very large operation network of the chain retail establishments is quite different from those who continue to operate independently in small business. I must simply leave you with this problem in that I have no idea how it can be properly addressed.

May I complete my presentation by suggesting to you that the fundamental flaw in this legislation and in other forms which have preceded it is simply that the provincial government is trying to establish a set of rules and then expects another level of government to enforce them. If the provincial government feels confident that it can define

a tourist and that it can define a tourist area then I would suggest, if it is still determined to require Sunday closure with certain exceptions, that it establish a means by which these exemptions can be considered and granted or not; in other words, if this law is enacted then rather than requiring municipal governments to call public hearings to make what I consider to be extremely arbitrary judgements, that the provincial government undertake that responsibility itself through the establishment of some form of hearing board.

I am in no way qualified to comment about circumstances throughout Ontario. It certainly must be true that there are peculiarities about the province. This government has obviously recognized that tourism is an important industry for the province and one upon which many small businesses are extremely dependent. I have already gone to great lengths to point out that tourism itself is ultimately a very difficult concept to define. There is no doubt that it currently represents a very important aspect of economic activity in this community.

I would suggest therefore very strongly that if the province is to choose to pursue a course of defining what I have already suggested is impossible to define, it then assume responsibility for enacting its own laws, using its own definitions, and not expect another level of government to do this for it.

0920

Mr Sorbara: Mayor Cooper, I have been listening to submissions now for I guess two and a half weeks on Sunday shopping. I just want to tell you that was a very well-thought-out and articulate brief and I think adds materially to the things we will have to discuss when we have finally completed the public hearing process.

I think you make an extremely good point when you argue that you cannot really define a tourist. I am here today. I am staying in this hotel, but I do not consider myself a tourist. I think you importantly remind us that you cannot define what a tourist wants, that they are as different one from the other as almost any two creatures that might be in the city of Kingston at any one time, and that there is no homogeneity in the retailing industry as well.

One of the interesting things that arises from your brief is your review of what happened in your own BIA; that is, that the owner-managed stores were the ones that came together, not unanimously but with some sort of consensus about opening on Sunday. We have heard a lot of complaints at this committee that the people who will suffer under any unrestricted Sunday openings are owner-managed businesses because they are the ones who do not want to open. Again, this varies from community to community, and I think the evidence of Kingston is clear. Once the BIA gets established with a Sunday market, is it not the case that a lot of local Kingston residents who are not tourists will be coming down to this area on Sunday to browse and shop? Is that not the case?

Ms Cooper: I do not know, without sitting there with a counter going, "Are you local or are you not?"

Mr Sorbara: I think you have a pretty good sense of who's who.

Ms Cooper: What happened last summer when we could have wide-open Sunday shopping was that it seemed in our case to be largely self-regulating. There was enough new business to attract people down here on Sunday for the period when the weather was nice, from June to August. If you walk in this area after Labour Day, it is as if somebody has rolled up the sidewalks. All of a sudden it is back to serious life again; no more fun. We have large pedestrian movements in this area all through the summer around the whole city hall area, Brock Street, lower Princess Street. Part of it of course is the fact that we have a large marina out here, and when people get off their boats, they are in essence trapped because they are automatically pedestrians. They cannot go anywhere else unless they actively choose to, using a bus or a taxi. We just have a lot of people strolling around. Who they are and where they come from I really cannot say.

The large argument, which I am sure you have heard over and over again, is that opening Sundays simply puts six days of shopping over seven days and therefore costs go up, but people are forced to compete and then have to stay open.

There is definitely new money here downtown on a Sunday. Whether it is coming from people who are local or whether it is coming from people who are from Kentucky or Japan—and I pick those two examples because there have been newspaper articles locally and people from Kentucky and people from Japan have been interviewed in those articles—I do not know what the proportions are. The point is that for those specialty businesses in particular, there are enough new customers walking around in the downtown on Sunday that they can say: "We're not getting six days business over seven. We're getting new money on the seventh day."

Mr Daigeler: I agree with my colleague Greg Sorbara that your presentation does add some new dimensions to what we have been hearing so far, and I thank you for coming before us.

One observation, though, that I was kind of expecting from you and I did not hear, and I am just wondering why, is that in many cities or places we have been, people related the Sunday shopping question also to the cross-border issue. They were arguing that because of the Americans being open on Sunday, they are losing a lot of money here in Canada by being closed on Sunday. Is this an issue here? Have those two things been related? Are you hearing that from the merchants, from the people? You did not make reference to that and I was just wondering why.

Ms Cooper: No, I did not. I am not sure who else you are hearing from today. The chamber of commerce has done quite a bit of work on this in terms of hiring an outside consultant to examine the cross-border issue, so it has a lot more competence in dealing with that than I have.

If I can define the issue locally, it is this. First of all, we are very definitely influenced by the cross-border phenomenon in this community. I do not know any community in southern Ontario that is not. But we are not a Windsor, a Sarnia or a Cornwall in that you still have to drive for over an hour to get to a shopping facility in the United States,

so we do not have the phenomenon of people crossing just to buy gas or just to buy groceries. Here, it has to be a conscious decision to make a significant journey.

If I may be so bold as to speak on behalf of merchants in this community, I do not think any of them think that by opening on Sunday they are going to stop people who have consciously chosen to drive down to the United States. Staying open on Sunday will not affect that decision in any way, shape or form. I think, however, what they are arguing is that for those businesses who can take advantage of so-called new money, as I defined it recently in response to Mr Sorbara's question, they are saying: "That gives us something to fight back with. We have a declining market share because of cross-border shopping and because of the recession and because of perhaps a multitude of other confluent circumstances. Allowing us to open on Sunday allows us to bring in some new revenue that we couldn't otherwise get."

Mr Poirier: As a Franco-Ontarian, I guess I played tourist last night around Kingston, and I must congratulate you, because I was quite pleased to see that one of the institutions, the Prince George Hotel, had a huge bilingual banner. I went into one of the restaurants, a fine Italian restaurant called Dominico's, if I remember well—it was that good of an evening—and they played for an hour about an entire album—

Mr Sorbara: What else did you do last night?

Mr Poirier: Confession.

Ms Cooper: I submit that this gentleman at least is a part-time tourist. He is solidifying my point.

Mr Daigeler: He is not just a part-time tourist; he is a full-time tourist.

Mr Sorbara: People have argued that he is also a part-time MPP. We do not agree with that either.

Mr Poirier: They played an entire album in French as background music, and I thought that was quite reassuring as a Franco-Ontarian to see people in Kingston make a special effort to attract—I saw about five or six tourist buses from Quebec last night in Kingston, and I figured, hey, you people are very progressive. I wish I could see that elsewhere, and I invite other municipalities to do what I saw in Kingston. I was very touched by that last night and I want to congratulate you and the business people. They have some good business common sense and good Canadian sense to invite people of the French language to Kingston, because it is a beautiful area.

Ms Cooper: Thank you.

Mr Carr: You said you had a vote and it was close. I was wondering what your opinion was. Did you vote in favour of opening or were you one of the ones who wanted to stay closed?

Ms Cooper: I supported opening.

Mr Carr: So with the tourist exemptions that we have in this legislation, that area will of course qualify. Do you see it expanding to other areas as a result of the tourist exemption, or do you think they are so narrow that you would not be able to get some of the other areas of Kingston? How do you see it going in your area? Do you see just the

downtown area being open or do you see pressures then for other areas to open?

0930

Ms Cooper: I should have pointed out in the presentation, and I will ensure it is included when I submit it to you, that we also said there was an exemption for Sunday opening in the BIA from May 15 to October 15. One of the people who made representation to us quite strongly was the manager of Sears, which is in the Kingston shopping centre, which is the regional centre to which I referred that is within the city limits. As I pointed out, with our laboratory experiment of that period of—was it eight months that there was wide-open Sunday shopping?—the only time that shopping centre chose to remain open was just prior to Christmas. By us saying the Sunday shopping exemption is for the tourist season only, which is very obvious in Kingston—we do not have a great deal of winter tourism—then there would be no pressure to open on Sundays over the Christmas period. Nobody would be able to open Sundays through the Christmas period.

So it seemed to me that what we were doing by passing the bylaw we passed was to say we knew what happened in the summer when there was wide-open shopping. There were a relatively few businesses that chose to remain open and they were all within a fairly concentrated area where there is this heavy pedestrian flow, and after tourist season is over, then everybody is closed down.

Mr Carr: I take it what you see happening then is the same thing. If this goes through, you will give the tourist exemption only during that period. Some will choose to open is the way you see it working.

Ms Cooper: Yes, that is exactly what has happened. I have not been wandering through the business area on Sunday afternoons. It is not a conscious attempt to boycott or anything like that; I just have had other things to do. As far as I am aware, the same businesses that took advantage of it before are taking advantage of it now. There are many other businesses that are closed.

Mr Carr: One of the comments we have had from some of the government side is that there is increased pressure on municipalities when you open. There is increased service for police and buses and so on. During that period when you opened that downtown area, was there any increased cost for your community?

Ms Cooper: Not that I am aware of. We do have a modified Sunday public transit system. We do have, as far as I know, the same number of police patrols working on Sunday as every other day of the week now, and had previously.

I think that is a very two-sided argument in that I just had the experience of going to Oshawa recently on a totally different matter, in fact interviewing for the Ontario Round Table on Environment and Economy, and they pointed out in Oshawa, I think, that their last retail business has left their downtown. They now have more requirements for police protection in that area than they have ever had before because the area is largely deserted. So it seems to me that argument is a two-edged sword. Where there is a great deal of activity, there may also be less opportunity for crime to occur than if an area is completely deserted.

The other municipal service that is extremely critical in this whole exercise is garbage—litter. Most of the litter that is generated in our downtown on the weekends, and there is lots of it, was generated whether there was Sunday shopping or not. Most of the litter comes from food products, that kind of thing, and it is there whether you have other kinds of retail businesses open or not.

Mr Carr: One of the things we have been hearing as we go around the province is that there are a lot of communities in Ontario that will be open as a tourist area, just like yours will be, whether it is a large part of the city like Windsor or just a smaller part like your area. One of the suggestions that has been made is that when the door gets opened a little bit and there is a little of Sunday shopping, there will be pressure from neighbouring municipalities if one of your neighbours stays open. Do you see that happening, or do you think most people will say: "No, we're quite content here. We don't travel to go to another community just to shop on Sunday"?

Ms Cooper: It depends who your competitors are. One of the effects of the 7,500-square-foot upper limit is that—we have got A&Ps within the BIA boundaries. Neither of them can open. As far as I can understand from having read what I have read about this debate, particularly in the Toronto area, the major food stores are significant players in this debate. At this point what we have done is to say, "No, big grocery stores are out of the game." It seems to me, on that premise alone, there is not nearly as much pressure from outside the BIA from other businesses as there would have been if the downtown grocery stores had been able to be open. I think we would have had pressure from other grocery stores because there I very much accept it is a matter of doing six days' business over seven days. Those are, to a large extent, not going to be tourism destinations in the way the market is down here on a Sunday. I cannot answer it any better than that.

As we have it at the moment, I do not sense that we have generated a lot of demand from outside the BIA because there is not competitive advantage for businesses outside the BIA. Those businesses could stay open but they are not going to get the pedestrian traffic that these few businesses around here get. The other thing that is important here is the outdoor market. I have not mentioned it previously. We have the longest continuously running outdoor market, certainly in Ontario. I think it was established in 1803 and it has gone through its ups and downs, but it has never stopped. On a Sunday now it is just a zoo, a fun zoo. It is an antiques market on Sunday, but a number of fresh produce merchants and craft merchants are also taking advantage of it now. It is a hive of activity. That is another bizarre element in this whole exercise. What we are saying is that we can have a market under current legislative provisions that everybody loves coming to, that in essence is selling many of the same commodities and goods as many of the stores that surround the market. Until we passed the exemption, we were saying yes, you could sell in the market, but you could not sell in the store across the street.

Mr Morrow: I will be very brief. Thank you, Your Worship, for presenting here this morning. I took a small stroll last night and this morning, and what a fine area you have.

Ms Cooper: Thank you very much.

Mr Morrow: We bought hats, spoons—

Mr Carr: This guy needs a separate briefcase to go back.

Mr Morrow: I have just a couple of really brief questions if you do not mind. One of your comments was that employees feel pressured to work seven days a week. Can I ask you to elaborate on that, and why?

Ms Cooper: Perhaps the best thing I can do for the committee is make available the minutes of those public meetings. I think you would find them quite interesting reading and they are quite detailed minutes. We had a couple of excellent presentations. One I remember in particular was from a young, single mother who manages a clothing store in one of the shopping centres. She made it quite clear to us, and I had no doubt believing her presentation, that she was going to have to work Sundays if there was Sunday opening in the shopping centre. In order for her to be able to control certain activities within that business, she would feel considerable pressure to be onsite.

Mr Morrow: In Kingston, do you feel that a retail worker should have the absolute right to refuse Sunday work?

Ms Cooper: Yes.

0940

Mr Kormos: Ms Cooper, I gather that among the people you have heard from have been people from the church communities and organized labour representing retail workers. The arguments presented by both of those factions are in part related to the matter of quality of life. You alluded to that when you talked about the single mother working as a manager in a plaza store. The argument presented by church leaders almost unanimously—I am not aware of any dissent within the religious community—is that we do not need more commercialization; that Sunday is, and traditionally has been, for Christians and for many others, perhaps not all of us, but for many others, a common pause day. I come from a small town where my interpretation of what is happening is that very much remains true. What do you say? How does one respond to those very compelling arguments? Are these people simply old-fashioned and out of step? Are they going to be left in the dust?

Ms Cooper: No, they are not out of step. One of the problems is that the definition of quality of life is different for different people. As I tried to point out in my presentation, a Queen's student looking for a series of part-time jobs over the summer to be able to get back to university might well argue that working for a few hours on a Sunday will contribute to his quality of life. It depends very much on the circumstances of the individual.

I simply have to throw this back in the lap of the government. The government has stated, as far as I understand, looking at the statements of Mr Farnan when he released the proposed legislation, issues such as quality of life are extremely important to that government. I understood it from the nature of the debate that occurred prior to the election.

However, Mr Farnan spent half the time in making that statement talking about the importance of the tourism industry in Ontario.

I would suggest that if the government is deciding that quality of life issues are important, if the government is deciding that the tourism industry is also important, then what the government is now doing is totally abdicating its responsibility by saying to local government politicians: "Okay, in your community you decide which issue is more important. We have decided that on the one hand this is important, but on the other hand this is important. But we can really not make up our mind which is more important. Therefore, you do it for us." That is what I am objecting to and, therefore, Mr Kormos, I find it really difficult to cope with a question such as you are advancing to me about what I think of the importance of the quality of life. I think it is very important. I think the importance of the health of the local economy is also extremely important, but I am your agent in determining which of these two issues are important. I suggest you were elected to do that, not me.

Mr Kormos: And I am inclined to agree with you.

Mr Carr: He disagrees with the Premier occasionally.

Mr Kormos: Yes, once in a while, not all the time.

The Chair: Thank you very much, Your Honour, it was a very interesting presentation. In Oshawa, it is "Your Honour," so it is "Your Honour Al" and "His Honour Al." They both are Als. Al Pilkey was succeeded by Al Mason.

KINGSTON AREA ECONOMIC DEVELOPMENT COMMISSION

The Chair: Our next presentation is from the Kingston Area Economic Development Commission, and Ms Paula Nichols, who is senior tourism development officer, will be speaking.

Ms Nichols: Good morning, ladies and gentlemen, and welcome to Kingston. Thank you for taking the time to come here and enjoy our city and our nightlife as well as to hear our presentation. I work for the economic development commission and my presentation starts by outlining briefly who we are. The Kingston Area Economic Development Commission, otherwise known as KAEDC, was established in 1979 through a co-operative agreement between the Kingston District Chamber of Commerce and the municipalities of the city of Kingston and the townships of Kingston, Ernestown and Pittsburgh. KAEDC follows an approved economic development strategy with the following mission statement: enhance the development of greater Kingston and its comparative advantages in a manner that will improve the standard of living enjoyed by local residents while maintaining and improving the area's quality of life.

KAEDC has three departments, economic development, small business and, most recently, tourism. The matter of Sunday shopping has been discussed at length by the KAEDC board of directors, who passed a motion supporting the choice for a business to open on a Sunday.

We are in the business of capitalizing on our unique strengths to develop and promote tourism. A great deal of resources by the province, our organization, and the private tourism businesses has been spent on attracting visitors to

Ontario. That is the hard part. Now we need to capitalize on their spending while they are here.

Tourism is the third largest industry in Ontario's economy behind the manufacturing and agricultural sectors. Last year alone, tourism generated \$15.5 billion in revenues in Ontario. The majority of these dollars are generated from outside of Ontario, making tourism a unique export industry.

In greater Kingston tourism is responsible for 8,500 person-years of employment and a total of \$170 million injected into the local economy. Therefore, we must be able to maximize the tourism development potential for our community and the province as a whole.

It is our opinion that Sunday shopping is an important factor contributing to the development and maintenance of a strong tourism and small business sector in Ontario and greater Kingston. It must be a matter of choice for the individual business.

Small business is the backbone of our economy. It creates the most jobs in a community. For example, according to the 1991-92 greater Kingston business directory, which is at the printers right now, over 80% of all manufacturing and business service companies have less than 20 employees. That is here in Kingston. This excludes retail and tourism, which also mostly consist of less than 20 employees. It is becoming increasingly evident that we must be able to compete in the global marketplace. The province must allow a business every opportunity for this. In our opinion, this means the choice for Sunday opening.

Sunday openings must also be a matter of choice for the employee. It is our experience that there are a lot of people wanting to work on a Sunday. This creates additional employment in our community. The Employment Standards Act provides protection for the workers and allows them the choice to refuse work on a Sunday. Therefore, this legislation also protects the notion of a common pause day if it is desired.

Sunday and holiday shopping must be a matter of choice for the consumer, particularly the visitor. We must be able to provide a full service to our visitors. Shopping is an important part of the tourism experience.

Imagine this: It is Sunday, an Ontario resident or a visitor is wondering what he or she can do. In Kingston, he or she can go on a boat cruise, to Fort Henry or to a museum. He or she can buy a meal at a restaurant or at the hot dog stand. He or she can buy cigarettes, milk or produce. He or she can go to the movie theatre. All of these establishments have employees who work on Sundays. Of all the things a person can do on a Sunday, he or she cannot buy clothes, gifts or souvenirs.

Does it not seem absurd to you that there is this discrepancy? There should not be a discrepancy on the kind of business that can open on a Sunday. Furthermore, businesses should not be penalized because of their location or size.

The economic status report for greater Kingston concluded that 24% of all tourism dollars are spent on gifts, clothing and miscellaneous items. This means that when our stores are closed on a Sunday, we are missing out on 24 cents of every dollar that a visitor would spend that day. This does not include local spending.

What does this mean? A full economic assessment is difficult to develop. However, if we used the visitors to the greater Kingston tourist information office in 1990 as an example, we can estimate the losses. Last year, 9,376 people visited our information office on Sundays during June, July and August. Based on local and provincial tourism statistics, we can estimate that these visitors alone who came to our office could have spent \$220,000 in retail outlets if they were open. In the province as a whole, the figures must be astronomical.

The greater Kingston tourist information office repeatedly receives complaints from visitors to the area about the lack of opportunity for Sunday shopping. One US visitor said: "There's nothing open on a Sunday? I can't believe it." Another one said: "We came up here for the weekend, looked around on Saturday for what we might buy. We were shocked to find the stores closed on Sunday."

These people will tell their friends and relatives about their experience in Ontario, whether good or bad. We cannot afford to continue to receive this kind of publicity. Ontario, as a whole, needs to take a progressive leadership role and go forward with its actions. We must look at the example of the western provinces, take a positive stand and show small business that you are on their side. Let them have the choice. Let the workers have the choice.

That concludes my presentation.

0950

Mr Sorbara: Mr Chairman, I am in complete agreement with the presentation made by Ms Nichol. It articulates, I think, as well as any brief we have heard, how important it is to simply allow for choice in a society as complex and an economy as diverse as Ontario's; and local choice as well, an individual choice. Indeed, I think that is the real foundation of a free and democratic society.

Perhaps I would just move, Mr Chairman, that based on the submission, we simply recommend to the government that the bill be withdrawn.

Mr Mills: You have got to be kidding.

Mr Sorbara: Well, we have a majority right now. We could have a vote right now and then we could take off for the rest of the summer.

The Chair: Thank you, Mr Sorbara. I think, however, we are obligated to continue hearing from the many witnesses—

Mr Sorbara: Your line now is, "All those in favour of the motion"—

The Chair: —who are waiting to appear before us. We can discuss your motion perhaps at the outset of our clause-by-clause hearings.

Mr Sorbara: Oh my God, now look at that: a motion like that brings the NDP members back into the room.

The Chair: Mr Sorbara, do you have any questions for the witness?

Mr Sorbara: No, I have a motion on the floor. Does the committee want to consider it?

Mr Mills: Are you serious or have you been in the sun somewhere?

Mr Sorbara: Of course I am serious. It is easy. Either you could call for the 20 minutes or you could call your members back in.

The Chair: Excuse me. As you know, Mr Sorbara is out of order.

Mr Sorbara: Why is that?

The Chair: Because we have witnesses in front of us. It is extremely rude to have this kind of partisan squabbling while we have witnesses who have important information which they can share with us.

Mr Sorbara: There is no partisan squabbling.

The Chair: If you do not wish to pose any questions to the witness, you do not have to.

Mr Sorbara: Would you just check with the clerk to determine whether a motion of that sort is out of order?

The Chair: I do not have to. We have people waiting in front of us—

Mr Sorbara: I would not want to challenge the Chair but—

The Chair: We have a witness in front of us. I do not think it is a good idea be using that time to engage in partisan wrangling. Do you have a question?

Mr Mills: The TV cameras have arrived. Disgraceful.

Mr Sorbara: I think you as Chair should check with the clerk on whether or not that motion is out of order. While you are doing that, I would ask Ms Nichols just one question. If it turned out that this bill were to be withdrawn and the ability to regulate the extent of Sunday shopping in the Kingston area, not just in the municipality of Kingston but in the Kingston area, were left to local businesses and local authorities, what is your view of the outcome? Would all stores open? Would all stores close? Would hours be the same as every other day of the week? Would you be able to come up with a form of regulation that suited the Kingston market?

Ms Nichols: I have to admit I did not live in Kingston last year. I am new to the community, but my understanding is that when Sunday openings were not regulated and everything was wide open, there were a number of businesses which chose not to open, particularly in the shopping centres. I know that the large shopping centre in Kingston township, the Cataraqui Town Centre, started out with about 20% of the stores opening. A week later it was probably 22%; and it went right up to about 80% of the stores opening by the end of the period. They obviously recognized the benefit for them to be open.

Mr Sorbara: There is a market?

Ms Nichols: There is a market. Naturally, there would be a number of stores that would choose to close, as there are now downtown.

Mr Sorbara: Was the quality of life deteriorating in the Kingston area, families breaking up, husbands leaving wives, children being abandoned and that sort of thing during that period?

Ms Nichols: From my understanding, life went on as normal; it did not create the big kerfuffle we all expected.

Mr Sorbara: The weather did not improve or deteriorate based on whether or not people shopped on Sundays?

Ms Nichols: It is tough to measure these kinds of things and to know how many divorce applications went in at that time versus other times, but quite honestly, life went on, and I think the local residents as well as the visitors enjoyed the Sunday openings.

Mr Daigeler: When the mayor spoke—I do not know whether you were here earlier—she started out by saying that during the last round of Sunday legislation changes, the people in the Kingston area basically wanted the stores to be closed. She went on to say that perhaps there has been a bit of a shift in opinion by the people. Although you just indicated that you are new to Kingston, do you have any information from your organization whether there has in fact been a shift among the people themselves, and if so, why so?

Ms Nichols: The downtown business association, which is presenting in a few minutes, did a survey that I believe was statistically significant. It indicated that 80% of the people they talked to, which represents 80% of the community, were in favour of Sunday openings. So I believe there has perhaps been a shift, especially because we experienced it for nine months and we did not have all the problems we were expecting.

Mr Daigeler: Just one final question, which has nothing to do with Sunday shopping as such: Your organization, the economic development commission, who is it made up of? Could you tell me a little bit about it?

Ms Nichols: The board of directors includes the heads of council from the four funding municipalities, and then the chamber of commerce appoints four people as well, so we have eight people on the board.

Mr Daigeler: So it is the chamber of commerce and the council representatives.

Ms Nichols: Yes, we have half-and-half municipal representation and private business.

Mr Jordan: Thank you very much for taking time to come out this morning. You stated that Ontario as a whole needs to take a progressive leadership role and go forward. On page 4 you say we must show a positive attitude to supporting small business: "Let them have the choice. Let the workers have the choice." Are you excluding large businesses when you say that, and are you saying we do not need a regulation to control Sunday shopping?

Ms Nichols: First of all, large business, in our minds at the office, would mean 150, 200 employees and more. There are very few retail outlets that would have that many employees. I do not know of any. On the second question, virtually what we are saying is that we should let business dictate, let the market dictate whether or not it is feasible to be open on a Sunday, and let the government, to be quite clear, stay out.

Mr Jordan: Are you and the mayor in agreement? The mayor is indicating that the government has attempted to define a tourist and has failed. The government has attempted to define what a tourist might want to buy and it has also failed. The mayor seemed to be indicating that if

there was legislation required, it should be defined and regulated by the government and enforced by the government, not by the municipality.

Ms Nichols: Yes, we believe it should be province-wide legislation, not left up to the municipality.

Mr Jordan: I am getting a conflict here. You were saying "no legislation" and now you are saying—

Ms Nichols: Sorry, you are right. First of all, there should be no legislation. Second, if there is, it should be province-wide.

By the way, Mr Jordan, I moved down from Renfrew to Kingston.

Mr Jordan: Thank you very much. I am sure you will be a real addition to the city of Kingston and bring the great personality of the people from that area to this area.

Ms Nichols: I might say something to Mr Poirier about our visitor information office. I do not know if you had a chance to stop by, across from city hall. All our staff are fluently bilingual. We have found that 50% of visitors on our buses are French-speaking, from Quebec and France. I cannot recall the number of buses and the number of travellers by bus to date, but it is outstanding.

Mr Poirier: Congratulations, Ms Nichols. I find your city to be very progressive.

1000

Mr Carr: Like the rest of the crew, I had a chance to go out and look around last night. I was very impressed with the number of people who were out. Of course, it was a lovely night and just a terrific community. One of the concerns that has been voiced in some areas is that there is no more economic activity with Sunday shopping, that it is just spread out over seven days.

We have gone to different communities where, for example, they say that is not the case. I will use the example of Collingwood, where they say that people who have cottages up there will not necessarily spend more, but they will spend it in Collingwood as opposed to going back to Toronto, and so on. Is that why you see more economic activity, or is it because you think that the American tourists who are up here, for example, will just leave their money in their pockets and go across the border? Is that what we are looking at when you say more economic activity?

Ms Nichols: Yes, I believe that allowing a business a choice to open on a Sunday allows it the increased economy or the increased business. I do agree with the mayor that we are seeing new money come into the community. You will also see local residents spending on those days, there is no doubt about it; but we are looking at new export dollars coming into our community which then get circulated two or three times.

Mr Fletcher: Thank you for your presentation. It was well done, well-thought-out. I agree with a lot of what you are saying, especially the part about tourism. I agree this province has to do something about tourism; it is one of our biggest industries. If we can change the tourist part of the legislation in any way to help tourism, then we are open to suggestions. I think that is one of the reasons you are here, to give us some suggestions.

There are a couple of things I would like to say. One is that I do not agree with the choice part as far as opening everything up is concerned. I think there has to be some protection in some industries. But again, that is flexible. We are open to suggestions.

You talked about the United States. There is one thing I like about living in Ontario and being a Canadian, that we are different from people in the United States; and not just the people, but their society also. I think it is something we have to protect, something that I feel has to be enhanced. If this is going to make us different, then fine, I am willing to be a little bit different.

As for the experience in the western provinces, I know that right now in Alberta they are starting to review their Sunday shopping laws. If I can just quote from Lynn Arling, who is president of the Alberta division of the Consumers' Association of Canada: "Alberta's experiment for the past 10 years has made everyone unhappy: employers, store staff and consumers. The dollar value of sales in Alberta has not increased, while stores have additional costs of lighting, heating, advertising, job training and shoplifting. People can spend more for a while, but soon the well dries up."

This is part of the experience that Alberta is going through. For nine months we had wide-open Sunday shopping and it was a novelty, but eventually the novelty wears off. Where do we go when the novelty wears off and the store closes down on a Monday or a Tuesday because sales are down? That has been the experience in the western provinces also: Sunday may be big, Monday and Tuesday are not. It spreads it out.

There are some things we have to look at. This is not a short-term piece of legislation. It is definitely going to be long-term. As far as protecting the workers is concerned—and I know you agree with workers having the right to choose, and that is part of the legislation also—they have the right either to choose to work on a Sunday or not to work on a Sunday, or to take another day as a pause day. It is not restricted just to Sunday. Again, as I said, you made some very good remarks and we are listening. Do you have some comments now?

Ms Nichols: The thing about the common pause day is, why does it only pertain to particular retail businesses? As I stated, several stores are allowed to open currently and several services are already open that you just cannot get by without, so why is it that this one particular sector in our economy is jeopardized by not being allowed to choose? That is where we are coming from.

Mr Fletcher: Yes, I can understand that. One of the things is that these are amendments to a bill that is already there. The New Democrats did not introduce the Retail Business Holidays Act. That was there long before we came to power. We are just amending it. Maybe you should ask somebody who is running for the leadership who does a lot of ranting and raving. Maybe he can help you out.

Mr Mills: Thank you, Ms Nichols, for coming here today and making the presentation. Perhaps I can answer that question. You say, why are we protecting particularly the retail workers? We are protecting the retail workers

because this government feels that the retail workers are particularly vulnerable to being exploited.

The way I look at it is that there are thousands and thousands of people in Ontario who work Monday through Friday: officer workers, lawyers, all that class of people. They do not expect to have to work on Sunday, and neither do retail workers. They were hired mainly in food chains and department stores to work Monday through Saturday and they do not expect to work on Sunday, but experience shows that they are mainly unorganized, they are not mainly in unions, they are one or two people spread out in stores and they are subject to the whims of the employer, who can put some pressure on them.

You ask, why are we singling out the retail employee? That is why we are. We feel they are particularly vulnerable, and this government is on record to do something about that.

Having said that, I would just like to go on to your brief. Mr Fletcher touched on a point I was going to raise. I like to think that in Canada we are pretty unique, and I would very much regret the day we become a clone of the United States. If people come up here from the United States and they complain, "I can't go shopping," I would like to think that perhaps they have come to Canada for the wrong reason. When I go to the United States on holiday, particularly a few weeks ago to Lake Placid, I do not worry about whether the shops are going to be open. I go there to see the local scenery. I would think that, in the main, people who visit Canada are here to visit the local scenery and that shopping is not on their main agenda.

You talk of the example of the western provinces, and Mr Fletcher touched on Alberta. We have statistical evidence from British Columbia, which has had wide-open shopping I think since Expo, four years or so, and the revenue during that period has risen 1%; 1% is the increase to offset what the cost is—I do not know. I do not think we have to look at the western provinces for an example of how good it is.

Ms Nichols: But again, it is up to the businesses to choose, and if it costs them money to be open, then they can choose not to be.

Mr Mills: What we are talking about really is not Sunday shopping but Sunday working, and that is my point.

Mr Klopp: In your brief you said that you cannot buy clothes, gifts or souvenirs in the Kingston area. I hate shopping but I go on trips or whatever, and my experience has been that you can buy souvenirs in Kingston. Three or four years ago when I was here I got sucked into buying a few spoons and a hat. So there are stores that are open. This legislation still allows for souvenirs to be sold in Kingston. Am I wrong on this?

Ms Nichols: The corner store that is currently allowed to be open might also sell souvenirs and you could purchase them there.

Mr Klopp: So that is not a correct statement; this is just an error. You can buy. It says "cannot" but should be you still can.

Ms Nichols: Yes, I guess, if you want to be particular, but in general those are the things. You cannot go to a

clothing store and buy something that might be a memorabilia, like a sweatshirt of Kingston.

Mr Klopp: You can too. I have them too at home.

Ms Nichols: Good. I hope you wear it a lot.

The Chair: Thank you very much, Ms Nichols.

Upon consultation with the clerk, I discovered that Mr Sorbara's motion is in order. However, I would suggest it is somewhat untimely to be engaging in that kind of discussion while we have witnesses before us. I would suggest and would request of committee members, if they do have such motions or issues to discuss, that we leave that to the end of the day so that we do not keep people waiting.

Regardless, we do have that motion in front of us. I would suggest, seeing as it is proper—

Mr Sorbara: Dispense with it.

The Chair: Do we wish to dispense with it? Do we wish to vote on it? Do we wish to move it to the end of the day?

Mr Jordan: Why not table it until the end of the day?

The Chair: I leave that to the committee members.

Mr Morrow: It is your choice, Greg. What do you want to do?

Mr Sorbara: I just want to count up to see whether or not we are going to lose it.

Mr Mills: We are all here; you will lose it.

Mr Sorbara: Okay, then I will withdraw it. I was so impressed with Ms Nichols's presentation, I think probably the view that she has expressed is going to prevail in the end.

The Chair: The motion is withdrawn.

Mr Sorbara: We may have to defeat a government in order to get there, but that will not be too difficult either.

Mr Mills: That is wishful thinking.

1010

EASTERN ONTARIO TRAVEL ASSOCIATION

The Chair: We now have a presentation from the Eastern Ontario Travel Association, Mr David Phillips. Mr Phillips, I note that you have been patiently attending and I know that you are aware of the process. Basically, take whatever time you wish for your presentation. The remaining time will be divided among the committee members for their questions, and I am sure they will have many for you. Please start when you are ready.

Mr Phillips: Thank you. It is interesting that I have been in the tourism promotion business for eight years and everyone is still trying to define what a tourist is. It not only is in the local levels but in the international level. The World Tourism Organization at one time came up with the definition of a tourist as being a person who travels more than 50 kilometres for the purpose of business or pleasure and stays overnight. The North American market objected to that, so it is back into the argument of what is a tourist.

In our industry, generally we refer to a tourist as anyone who travels more than 50 kilometres to another community and that is it. If that person is going there for business or pleasure, he is spending money and that is tourism dollars coming into a community. I would suggest that every one of you are tourists into the Kingston area

and into parts of eastern Ontario. As the representative for all of eastern Ontario, I welcome all of you to tourism in eastern Ontario.

The Eastern Ontario Travel Association is one of 12 non-profit organizations formed in 1974 to promote tourism in various regions within Ontario. We do this through co-op marketing programs with our members. Our membership consists of the tourist associations within eastern Ontario, which themselves represent thousands of businesses, plus direct members who assist and advise us.

Our association recently formed a legislative affairs committee to respond to various provincial and federal matters that may have an effect on our members. The chairman was unable to be here today and I am taking his place. We in turn are members of Tourism Ontario, which has made a presentation to this committee. We do not want to repeat what they have said. Rather, we could go on record as supporting its recommendations concerning changes to the proposed bill and request that the committee give serious consideration to them.

The eastern Ontario travel region comprises some 10,000 square miles and, according to the Ministry of Tourism and Recreation statistics, places as follows among the 12 travel regions: We are number 3 in tourism expenditure by all visitor origins, number 3 in total tourism revenue, number 3 in direct employment supported by tourism expenditure and number 4 in numbers of visitors.

Much of this business is in our region on weekends. It is the weekend cottager, fishing enthusiast and festivals and events attenders. With three- to four-day short trips becoming the norm for holidays, our region must cater to them.

We feel the rules should be the same for everyone, not left at the discretion of the local politicians. In the past few weeks, one community voted to allow part of its retail area to remain open, while another nearby community refused to reconsider Sunday shopping. This inconsistency only serves to confuse the visitor and puts businesses in one area at a distinct disadvantage.

Many of the businesses in smaller communities in eastern Ontario depend on the tourist season to make it through the year, and this year is tough enough. In addition, the proposed bill lets a local government determine the time period a retail establishment can be open. Would a business that applies to be open during the summer months then have to make another application to open during the off-season, or would it not be better to have a set time frame? Does a business have to apply each year? I have not seen anything in the copies of the parts of the bill that I have that indicates that. Perhaps these are details yet to be worked out.

In eastern Ontario our tourism seasons vary. We have of course a very active summer. Then the fall colours are an extremely important part of tourism in eastern Ontario. The winter activities in our north part, up in Renfrew county, are very important to the tourism operators in that area during the winter. As I said, in many areas winter is the more important. We feel the paperwork that is going to be generated by this current bill and the changes is just too tremendous.

In general, our members appreciate the consideration the bill has for the tourism sector and we thank the government for that. On the other hand, many of our members still feel that the government has no business trying to regulate them as long as there is protection for the worker. As Tourism Ontario has pointed out, this is already covered under the Employment Standards Act.

I remember years ago, and I think I am older than most of the committee members, the businesses in various communities—and I was born and brought up in Ontario—would close one day a week, plus the Sundays and holidays, without having to be regulated. In most of the cases I remember, in a place called Lakefield, it was Wednesdays. It was simply Wednesdays, because they had determined that there was not enough business that day. This was decided by mutual agreement, not regulation. Would it not be nice to have that again? It would, of course, eliminate a lot of work for both politicians and lawyers, so maybe it would not be that great. But consider the money saved. Instead, all levels of government must now get involved giving more frustration to business people already mired in paperwork.

As a totally personal opinion, and it is mine alone, if permitted, I was living in Alberta up to June 1990 and went through all the fighting, court cases, hard feelings, etc, when Sunday shopping was an issue. The province finally decided to drop the issue, leaving it up to the municipalities and business. There were the arguments that the provincial government was taking the easy way out. In a sense, I see that here as well. The fighting will be between business and municipalities. In Alberta, most municipalities did nothing about it and Sunday and holiday shopping is popular.

I heard the comments from Mr Fletcher with the consumers' report. I just wanted to comment on that. I have eight children and five grandchildren in Alberta. They all think that Sunday shopping is not for them, except for the ones who find they are working six days a week and have to have one day to go shopping. Several of my kids do because of the economic conditions.

The majority of the stores that I am aware of in Alberta that are open on holidays and Sundays are open in the larger communities. They are not open in the small communities, which are the ones which would be more affected by the lack of manpower and retail workers. In a sense, this is taking business back to the old days and deciding when to open, because they do have a choice.

I agree with open shopping providing the workers are protected. Protect the workers if they are not sufficiently protected. But why not leave it up to the businesses to run their businesses? They know whether they can afford to be open. Less legislation, not more, would assist a great deal.

I wish you all the best in your deliberation.

1020

Mr Sorbara: I guess you will not be surprised if I tell you the views you are expressing here on behalf of the Eastern Ontario Travel Association are the views we have been hearing over and over again in every community we have visited thus far in these deliberations.

Mr Phillips: I understand that.

Mr Sorbara: I guess you would not be surprised, as well, if I told you that in comparison to what was being heard during similar committee hearings in 1988, the world has changed dramatically. That is to say that by and large the people of Ontario, individually and through their representatives, save and except—I have to give credit where credit is due—the trade union movement and some fundamentalist religious groups, believe we are now mature enough to be able to develop a level of self-regulation of Sunday shopping which does not require massive provincial interference. Is that surprising to you?

Mr Phillips: No, it is not surprising.

Mr Kormos: It is offensive.

Mr Sorbara: I would just tell my friend from Welland-Thorold that he can express his concern or offence later on.

Mr Kormos: You are really offensive to speak of "some fundamentalist" church groups. The Catholic Church in Ontario is just some modest element of the religious movement? My God.

Interjection.

Mr Kormos: Excuse me, Mr Chairman, my apologies.

Mr Sorbara: I think your responsibility, Mr Chairman, is to rule the member for Welland-Thorold out of order and ask him to be quiet while I finish the question.

The Chair: Please direct your comments to the witness.

Mr Sorbara: If it turns out the government is wise enough simply to withdraw this bill and allow a community like the Kingston area to find its own level of regulation for Sunday shopping, what do you expect is going to happen here? Do you expect that every store will open? Do you expect store hours will be the same as, say, Thursday? What might we expect to see emerge in the Kingston area, or in the eastern Ontario area?

Mr Phillips: My own personal opinion from the experience in Alberta, and I lived there for 20 years and went through all the processes out there, is that in the major centres—perhaps the Ottawas, the Kingstons, maybe the Cornwalls; it is hard to say the size of communities—that businesses that feel they can make a draw, the shopping centres perhaps, may consider staying open. I think if you go into Alberta today, the only places you will find stores open on holidays or Sundays are the Calgarys, the Edmontons—and the Jaspers and Banffs during the summer; they are not open on Sundays during the winter.

Mr Sorbara: If I just might conclude with one final question, you had the benefit of living in Alberta, where Sunday shopping is much less regulated than it is here. Prior to the election here in 1990, and in fact during consideration of the bill which gave municipalities the unfettered discretion to set their own rules on Sunday shopping, the current Premier of the province, then the Leader of the Opposition, Bob Rae, made a number of speeches in which he said that family life would deteriorate, that the bonds between husband and wife and children would be broken if we allowed community by community to set their own rules. He proclaimed that employers would coerce workers into working on Sunday. He did not quite predict the end of the world, but he predicted a sort of social chaos

in the province if we proceeded with that bill. The bill was not much different from what you had in Alberta.

Did you find the quality of family life in Alberta to be of a significantly lower quality than in Ontario, that the social fabric of the province is significantly more strained because people can make a free choice as to whether they open their businesses on Sunday or whether they actually go out to shop on Sunday?

Mr Phillips: I really do not think it has changed anything. I am not a social worker; I do not know the social implications in Alberta. But knowing the people I have known over 20 years, it has not changed anyone that I am aware of.

Mr Daigeler: I asked this question of an earlier presenter and I would like to ask it of you. Do you see any connection between the cross-border shopping issue and the Sunday opening question?

Mr Phillips: I would prefer perhaps to leave that to some following presenters because they have more of the facts and the details on it. There have been comments about the United States and the Americans. I was in Baltimore for a conference recently. The stores in Philadelphia, which you would think of as a major historical attraction, are closed on Sundays. I do not think it detracted from the numbers of people who went there, and that is going against what I feel. However, the stores were closed on Sunday in Philadelphia, which is a major American city, a historical city, one that is very dependent on tourism. It has not affected them. I am arguing the other side now from what I personally feel.

Mr Daigeler: That is interesting.

Mr Phillips: It is a strange concept, but to answer your question of whether I go shopping in the United States on Sunday: no. I do not go shopping anywhere on Sunday if I do not have to. It is the one day I feel I have the option to do what I wish to do, and if I wanted to go shopping, I would like to be able to, personally.

Mr Carr: I come from a background in marketing. You may be familiar with what happens at stores when they put the candy bars right by the cash register. What normally happens is people are not searching for a candy bar, but when it is there, it is sort of a point-of-sale type of pickup and they grab it.

From what I was hearing, that is exactly what happens with the tourist in a lot of ways. They do not come here to shop. It is not the number one reason they come to Ontario from the United States or from other parts of Ontario to your region, but while they are here, there is a point-of-sale decision made, like Mr Morrow made to buy the hats and the spoons and so on. Is that what you are saying, why there is more increased activity in the area for tourists as they travel?

Mr Phillips: I think a tourist likes the option of being able to shop when he is in an area. We have in the Kingston area a great number of people who come in here on a weekend and want to do some shopping on Sunday. An example is that I had—I will throw a term at you and see how many people's eyes go up—a volksmarsch on Sunday. We had 170 people from outside the Kingston area in

Kingston on Sunday. I know personally that a great number of those people went into stores and bought clothing. They bought things at the stores including souvenirs and all kinds of gifts. There were 170 people from as far away as Comox, British Columbia, one lady from Norway and 18 from New York state who came up for our walk. There were 95 people from the local area whom I did not expect to do any shopping on Sunday, but the others, I would say without a doubt, all spent some money in Kingston on Sunday.

Mr Carr: As we have gone around the province, a lot of businesses say there are enough workers out there who are willing to work. We heard from a small business in the Beaches area of Toronto that said it had a list of 200 people who wanted to work—students, women who want to work part-time and so on. The representations we have had have been mostly from the unions, the United Food and Commercial Workers, which of course is in the food portion of it. We have not heard from many of the retail workers, because in a lot of cases they are not organized into a union.

One of the things that struck me, since the big concern is the difference between the retail—the clothing and so on—and the grocery stores, is that we are hearing a lot of representation, and I think the government is, from those workers. I wanted to see if you would see a problem somehow if this government were to distinguish between food stores—because I think a lot of the tourists who come up here go to restaurants; they do not go to food stores. I was thinking we might be able to keep some of the workers in the United Food and Commercial if we were to say food stores cannot open, because they are obviously just concerned about their own membership and that is what they are elected to do.

Would you see a big problem with your industry if we were to distinguish between those two groups of stores and maybe keep the A&Ps closed for the United Food and Commercial Workers but have retail stores open? Would that create a problem, or do you think you need to have it all open?

Mr Phillips: I do not personally think it would create a problem in our industry. The problem I think it would create is somebody crying discrimination and saying, "Why are you restricting it to certain businesses?"

1030

Mr Carr: I see. Of course, we are going to get that now anyway because the exemptions are so broad, regardless of what side of the issue you are on. The only people who are going to benefit are the lawyers. We had the mayor in earlier, of course, and if she does open up a particular area, those that are opposed to it are going to be saying, "They did not follow the guidelines," and vice versa. Since there is no appeal process—the municipalities are final—we are going to end up in the courts. I think we may be spending a lot of time in that regard over the next little while.

It just happened upon me that the United Food and Commercial Workers came in and said they do not see people shopping for steaks and heads of lettuce. I quite frankly agree. I just thought there might be some type of compromise, so I appreciate that.

One of the other concerns that has been voiced is about the workers and people being forced to work. I wondered,

coming from the travel industry, what your thoughts are about how you handle that. How do you make sure? We have heard some other areas saying that in the service industry, if you have somebody working on a Sunday who does not want to be there and whose face is down to the floor, whether it be a grocery store or a clothing store, you are going to lose business. They do not want those people in there. In this day and age, you just cannot afford to have poor service like that. How do you make it so the workers are protected and do not have to work if they do not want to in your industry? Or how do you see it working?

Mr Phillips: I do not get directly involved in that. I think some of the presenters coming up would have a better idea—the motel associations, for example, and the other people that are in that direct field.

Let me just say this. As far as I am concerned, if a person is serving a tourist or a visitor or a resident, and that person is not top-notch, then they should not be in that business anyway, whether they are unionized or not. My personal feeling is that a person should be enjoying their work. If they are not, there are lots of other jobs if they go searching. I do not feel that anyone should be serving a visitor, in particular, and feeling down or complaining that they have to work on Sunday. That is why I stated in my presentation that I feel the right of the worker is paramount. I think they should be protected. I think it should be made very clear, that regardless of whether this passes or not there should be legislation that says a worker does not have to work on Sunday and is protected from that. I think an employer would be a little bit less than intelligent if he or she had people working who were going to do more harm than good to their business on a holiday or a Sunday.

Mr Carr: Good, thank you. Good luck.

Mr Mills: Thank you very much, Mr Phillips, and thank you for your presentation here this morning. I have said many times that we are here to listen and we are certainly listening and taking note.

I would just like to draw your attention to page 2 of your presentation, where you say, "We feel the rules should be the same for everyone, not left at the discretion of the local politicians." I would just like to tell you, sir, that the tourism criteria have been established through consultation with Tourism Ontario, the trade—everybody connected with tourism was spoken to, not only here but right across North America. Those criteria were established through talking to people who know tourism. I will go another step further and say that once we have these criteria, which I admit are in a draft form only, that would indicate the government's commitment to establishing a fairness to every community, whether it is here, whether it is in North Bay, Oshawa. They can look at those criteria, and they will be same for everyone. It is not left up to the politicians at all. The politicians follow the criteria. If the draft legislation remains in place, they follow the criteria and they apply the criteria and then they make their decision. So I really do not think, as you said, that it is at the discretion of the local politicians, because they have to follow some very fine guidelines.

Mr Sorbara: If I might interrupt on a point of order, Mr Chairman: My friend Mr Mills has just set out what I consider to be an inadvertent misleading of our witness here. I will make my point very quickly and very briefly.

The Vice-Chair: Please do.

Mr Sorbara: If you look at subsection 4(7) of the proposed bill, Bill 115, it says, and I quote, "The council is not required to pass the bylaw even if the tourism criteria are met." I think my friend the presenter is saying that supports his argument that it is up to the local discretion of the politician. My friend Mr Mills is arguing that there are provincial criteria. Certainly, but the bill itself says that it does not matter if you meet the provincial criteria, the council has full discretion to say, "Sorry, we're not going to pass that bylaw and let you open." So to suggest to him that there is no discretion of local municipal politicians in refusing a bylaw is simply in error, and inadvertently misleads our witness.

The Vice-Chair: Mr Sorbara, I am sure Mr Mills has no intention of so doing.

Mr Sorbara: I find him an honourable man in most instances.

The Vice-Chair: Mr Mills, please continue.

Mr Mills: Thank you for that intermission.

Mr Sorbara: No, an interjection.

Mr Mills: No, I call it an intermission. I am sure Mr Phillips knows where I am coming from.

Mr Phillips: Could I answer that before you continue?

Mr Mills: Sure, go ahead.

Mr Phillips: The indication I was giving there is that I think there should be a provincial standard, not left up to local politicians. If in fact this bill is being passed outlining the tourism criteria, which we appreciate, why not have the provincial government take full responsibility instead of sending it back to local politicians making alternative decisions? In other words, we have in eastern Ontario 161 municipalities that could make 161 separate decisions on how they are going to read these laws and make their own decisions as to whether they allow opening or not. If the provincial government were simply to say, "This is the regulation, this is how it is," municipalities have no say in this sort of law.

I am not saying the criteria are not there. I am saying that what we are doing is simply passing something the government did in Alberta. It was fought in the courts, it was shot down, and now they allow the local municipality to decide again, and that is precisely what this bill is allowing the municipalities to do. I think that is what is wrong. If you are going to take charge, take charge and pass the bloody bill that will outline the whole thing and let's get it over with. Take the responsibility away from the local politicians, the municipalities. We are going to have to pay enormous sums of money to argue and listen at our hearings about the openings.

Mr Mills: That is the uniqueness of this hearing. We are listening.

Mr Phillips: Most times.

Mr Klopp: I find your comments somewhat interesting, coming from a small town. I do not know how big Lakefield is, but I come from Zurich, Ontario, population 800. It has not changed since I was even shorter than I am now. You made the comment they were closed on Wednesday, which strikes a chord, because that is what the local businesses did in Zurich Wednesday afternoons. But the key point has to be that they were all definitely businesses that were family-owned, small operations, hands on. Indeed, they all had to get together in a room somewhere and decide, "Listen, Fred, you don't open, I won't open." There was a certain amount of trust. They each had a gun, though, to keep the other one honest, and that was the law they made. I wish we could go back to that.

You made a point that in Alberta it is in the larger communities, usually because the big fish get bigger and then all of a sudden they want their managers or whatever to work on Sunday and they force them to work on the weekends. You said you want to protect the workers and I guess this is where my question leads in. In Alberta, have they had legislation, since they have it wide open, to give real protection to the workers? If so, could you please tell us so we could maybe look at that? You have made the suggestion.

Mr Phillips: I do not know. I am not sure what the legislation is protecting the workers in Alberta, but I know the unions are very strong there and I would be very surprised if there was not some protection. I am not totally familiar with it. I would rather not comment.

Mr Klopp: You are not aware, then?

Mr Phillips: No.

Mr Klopp: Because that is a dilemma.

Mr Phillips: Just as another example, years ago in the Maritimes, service stations used to get together in each city or each town and decide that one of them was going to be open on Sunday to serve the public and the rest of them were closed. Again, it is a self-regulating thing. It was not a law, it was not something that was passed by the government. They simply decided there was not enough business to go around, so one has to be open to serve the travelling public. It was self-regulating.

The Vice-Chair: Thank you very much for your fine presentation, Mr Phillips. You did a fine job.

Mr Sorbara: On a point of order, Mr Chairman: I do not think it is fair to ask our witnesses to comment on the legal provisions of other provinces. If my friend Mr Klopp would care to direct his attention to the brief prepared by the Ministry of the Solicitor General for those hearings, he will notice under tab 14 the legislation setting out the regulation of Sunday shopping in Alberta, along with a statement that there are no provisions under the employment standards legislation to protect workers who do not wish to work on holidays. Indeed, my own recollection is that that is the case in each provincial jurisdiction except the province of Ontario, which does have very substantive provisions under the law right now.

The Vice-Chair: Thank you for that point. It is not a point of order, but thank you for the information.

Mr Fletcher: In Alberta, since Sunday shopping has been established, collective agreements have been whittled away so that instead of getting time and a half, double time, on Sundays, now they are getting a premium that has gone lower and lower. That is what happened in Alberta.

Mr Kormos: On a point of order, Mr Chair: At some point during the day could the clerk or the Chair spend some time with Mr Sorbara and educate him as to what constitutes points of order, because if he is going to be pursuing his political career in the direction that he envisions, it is important he know these very basic and fundamental things. We would not want him to go off on some sort of tangent, not in pursuit of the goals he is chasing.

The Vice-Chair: Thank you very much, Mr Kormos. You can join the class too. That is not a point of order, but I appreciate the information.

Mr Sorbara: My friend, you have opened this discussion up to an entirely new dimension.

1040

KINGSTON DISTRICT CHAMBER OF COMMERCE

The Vice-Chair: Next, could I have the Kingston District Chamber of Commerce. Can I please have you introduce yourself? You have half an hour. You can divide that up however you wish and I would imagine that the fine gentlemen up here would like to ask you questions when you are done.

Ms Reid: I do not believe I will need half an hour.

I am Peggy Reid. I am president of the Kingston District Chamber of Commerce. We are an association of Kingston area businesses with over 900 member firms and we are the strong united voice of business, committed to initiating, developing, promoting, protecting and evaluating policies and programs which further economic progress, free enterprise and quality of life in the greater Kingston area.

The Kingston District Chamber of Commerce, aware of the government of Ontario's commitment to provide a common pause day to help strengthen family and community life while protecting the rights of retail workers and recognizing the unique requirements of the tourism-dependent local economies by amending the Retail Business Holidays Act and the Employment Standards Act, wishes to express its concern over proposed legislation and takes the following position:

We believe merit should be given to the amendment to the Employment Standards Act which gives employees the absolute right to refuse Sunday and holiday work, but not by forcing businesses to remain closed. Individual employees should have the ability to choose to work or not to work on a Sunday or a holiday. Workers should also enjoy the right to work if that is their choice.

The Kingston District Chamber of Commerce resents the unilateral decision to have chambers of commerce and boards of trade act as regulatory bodies without consent. The burden of assuming the role of a regulatory body, with the legal implications that would accompany making these types of decisions, is far beyond the purview of chambers of commerce and boards of trade. What government organization

opinion presented, I think through the Attorney General's office, stating that the closed-membership warehouses do come under the legislation. That being the case, we do not believe they even understand they come under it. We would recommend that the legislation still needs to be amended to clearly indicate that businesses such as Price Clubs do come under the legislation. I do understand as well that there has been an order go out to the police departments to start to enforce the RBHA in terms of Price Clubs.

It is our position that changes must be made in order to prevent an inappropriate weakening of the common pause day principle. Specifically, we submit the following five recommendations. I am not going to read through them in detail because you have heard them in the past. I think we are the one group of people or organization that has been unanimous in terms of our position on what amendments we see need to be made to strengthen the intent of this government, which is to preserve a common pause day for the province.

Number 1 is to define the common pause day, and that is to enhance the definition of the common pause day under the current amendments. Number 2 is to establish tighter tourist exemption privileges.

1140

I will just slip over to page 4. The hearings I have been at just reinforce our position we have been taking at the hearings, in that there needs to be a committee of stakeholders to get together and work out what are going to be the tourism criteria in the province. I have heard it consistently through all of the hearings that everyone seems to have a different viewpoint. Well, the people who are going to be enforcing this law are ourselves, and we are best to say what would be the criteria that are legitimate in terms of tourism. That would include, for example, Tourism Ontario. We are not saying it should just be a body made up of labour. We suggest that it would be a body made up of groups that have clearly been on the side of wide-open Sunday shopping and clearly on the side of no to wide-open Sunday shopping. Everything that I have seen so far in the last week and a half during which I have been following this committee only points directly to that and the importance.

I have had some experience in that area in the city of Toronto when it dealt with task force hearings. We did have a group of stakeholders meet to discuss that very issue, the tourism criteria. Unfortunately, we only had one meeting that lasted an afternoon. At that meeting we were able to put a lot of the crap out of the way and actually deal with what is tourism. Had we had an opportunity to have more meetings along that line, I think we could have said to you as the government, "This is what tourism is in the province."

I commend the government for looking at trying to develop criteria after consultation with a number of the stakeholders, but I do not think any of the governments in the past, when they have tried to define what is tourism and what is a tourist, have ever asked the stakeholders, "You guys sit down and work it out together." We have done it under other pieces of labour legislation, for example, the Workers' Compensation Board amendments and Occupational Health and Safety Act amendments, where

we have had the stakeholders sit down and work out what the regulations would be.

In addition to that, under this specific recommendation in terms of establishing a tighter tourism exemption privilege, we also require a right for any group to appeal to another level of government other than that which made the decision in terms of the tourism criteria. We are suggesting that something similar to an Ontario Municipal Board, or a tourism exemption board, be set up. You may want to look at the OMB process in that that process is already in place, whereas the tourism exemption board may be a little more costly in terms of developing and those sorts of things.

Mr Sorbara: More jobs in government.

The Chair: Mr Sorbara, please. Will the witness continue?

Ms MacKay: Recommendation 3 is to introduce stricter controls on drugstore openings. A lot of my work in the last couple of years on this issue has been around the issue of drugstore opening. An example just recently, I believe within the last two weeks: The regional municipality of Niagara has granted an exemption, albeit I know that any bylaws passed after June 4 are going to be rescinded, but they have passed for Herbie's Drug Warehouse to open at 10,000 square feet.

When this fellow Herb got up and made his presentation in the regional municipality of Niagara, he said, "I started out 40 years ago in a 900-square-foot drugstore." Well, excuse me, if you are really a drugstore, then what has changed that the health care needs have really altered that much that you now need to expand beyond even what the current law sets at 7,500 to 10,000?

We have seen—and I actually do not have it with me; I think it is down in my room—newspaper articles which show what drugstores are actually selling today. If you look at the RBHA and the intent of what they are supposed to sell, the word "sundries" has been widely interpreted to mean anything and everything, including bicycles, barbecues, whatever is the will of the pharmacist.

Our recommendation is that they actually be brought more in a legitimate line and brought into a position that up to 2,400 square feet would be allowed to open. We have done a lot of research on this area and we would be hard pressed to find what community, or any community within this province that has a drugstore now, would not have a drugstore or pharmacist that could open on a Sunday to meet the health care needs of the public on a Sunday with 2,400 square feet or less.

Recommendation 4 is to provide adequate enforcement of the legislation. We know what led up to the period of wide-open Sunday shopping was, for example, the Loblaws supermarkets of the world and the food retailers taking on the law and announcing outright that they were going to break the law and open. They did that, and they did that out of not seeing legitimate enforcement in the past government on the RBHA.

The Committee for Fair Shopping, just for your information, will be making a presentation on August 29. You may want to ask them a question similar to this: If you go

back to the original intent of why the Committee for Fair Shopping was originally struck—just a bit of history—they used to be part of our coalition opposing Sunday store openings up until approximately November 1989, when they formed the Committee for Fair Shopping, because there was no legitimate enforcement of the law taking place. They felt that they had to bring the issue back into the light of the public eye and force the government to deal with the issue of enforcement whatever way they could, so they saw that what they had to do was to form a group of retailers called the Committee for Fair Shopping to enforce the legislation. The way they forced the enforcement of the legislation was to illegally open, and they got away with it in many cases, as many have in the past and continue to.

I think there is a legitimate effort in terms of trying to find a way to enforce this very difficult piece of legislation by this government. What we are suggesting as a way that it can be enforced is, first off, we have addressed that fines obviously, in our opinion, need to be increased. We heard in North Bay how Powassan, a retailer, had been fined 33 times, paid a fine of \$500 for one fine, and the other 32 charges were dropped. That is merely a licence to operate. There is no way that is legitimate enforcement. If you are I or any one of us had 33 speeding tickets, we would not pay one fine; we would pay all 33.

If we are going to look at legitimate enforcement, then I think you have to look at our recommendations, one of our recommendations being that the stakeholders in this have the right to impose injunctions on businesses that are illegally opening on Sunday. It has worked quite well, I am told, in the province of Quebec and it is something that I think this province should seriously look at. Then if you have, for example, an A&P opening down the street from Loblaws, Loblaws can go in and impose an injunction on them for violating the law.

In addition—it is not listed in my brief—we do go along with the other recommendation that there be some kind of sticker system put in place. I mean, for law enforcement agencies out there, I would not want to be a member of the police department trying to enforce this law as it now stands. I think a sticker system, similar to liquor licences or whatever, some sort of system like that, if that was put in place, explaining under what sections of the act the business is given an exemption, would be much easier for them to cope with. We have heard that in different communities from the police department in the area in terms of enforcement. However, we could, through the injunction process, assist in that a great deal.

Recommendation 5 is to redefine retail businesses. Again, we go into the Price Club issue or the club warehouses, and I have already explained that.

In conclusion, in opposing wide-open Sunday shopping, the goal of the UFCW has always been to protect the rights of working people and to preserve a common pause day for family activities. The amendments proposed by the NDP government show a commitment to a common pause day principle, but fail to provide the limitations necessary to ensure the goal is met.

The mandate of the standing committee on Bill 115 was to solicit views—let's not forget that—on the proposed

amendments to the Retail Business Holidays Act. It was not to hear detailed arguments in support of Sunday shopping or opposed to Sunday shopping. That issue was settled when the government voiced its commitment to "provide a common pause day to help strengthen family and community life." The only issue left to be determined is what business should be exempted from the general Sunday closing laws.

We believe the recommendations in this and other briefs presented by the UFCW would help to firmly establish Sunday and holidays as common pause days. They would act to provide a fair and viable alternative to wide-open Sunday shopping. They would also act to protect the rights of working people and give retailers the ability to operate on an equal basis.

I just have a couple of additional comments that I did want to add that we have not been addressing in our presentations.

There have been questions asked in regard to whether the lower-tier or the upper-tier municipality should deal with the issue of exemptions, and specifically tourism exemptions. Our position is—and I just want it for the record—that it should definitely be the upper tier, the reasons being similar to those that have already been expressed. There is the wider geographical area that it would service, for a more unilateral decision, looking at the exemptions and having the widest possible reading of it in terms of their interpretation of whatever criteria are set. I think that a lot of this is going to be left to the interpretation of communities, and we think the wider municipality or the upper tier should be the one that is looked at.

1150

I would like to also address for a moment the issue of choice. It has been something that is quite popular these days, as I have been hearing in the hearings I have been at, anyway, and there are a number of groups supporting that position. I think we would all like the issue of choice, but the reality is that if retail businesses started to open on Sunday, you would simply shift the shopper's habits over to shopping on Sunday, away from the other six days of the week. In doing that, businesses are going to be hard pressed to ever close, if they chose to close, because there would be no choice any more.

We have already heard all the arguments as well in terms of the business's local competitor down the street. I think an example of that was in the period of wide-open Sunday shopping that we did have, in terms of who had a choice to stay open or stay closed. Sears Canada, for example, managed to stay closed for the first couple of weeks of wide-open Sunday shopping and was forced competitively to open after that, as were many, many small businesses, including the hardware stores, including the family clothing stores and the shoe stores. Many, many of them were forced to open. So there is no issue of choice when you call it choice.

In addition to that, from a retail worker's perspective, we were told that Loblaws—especially coming near the end, before the decision—was talking of closing the store for a half day on Wednesday or closing the store altogether on Monday, because their business had shifted, not from

during the week, but from Saturday business. The business had dropped on Saturday and gone to Sunday.

In terms of choice, all you are doing is shifting the consumer's habits. There has been no outcry from consumers or shoppers that they want to shop on Sunday. I live in downtown Toronto, and I have talked with tourists who have found the fact that the city is virtually closed down on Sunday to be quite an anomaly. The people are quite surprised to see it and actually impressed to see that a city, especially one the size of Toronto, can actually take a day from the corporate agenda and leave it to the people. So there have been differing viewpoints, but I think we have to look at a day when the dollar does not rule almighty.

In terms of the Kingston hearings, unfortunately we were unable to attend those hearings. We are not, as stakeholders, notified, although there is a notice publicized in the local papers.

Mr Sorbara: These are the Kingston hearings?

Ms MacKay: No, sorry, the city of Kingston, when they held the hearings regarding the issue for Kingston. Somebody who was there had told me they understood that there were eight representations that said no to wide-open Sunday shopping, and no, they did not want the business improvement area to be open, and four that said yes. Yet the city council voted anyway to open.

I also would suggest that the new-found money may be because the malls, etc, outside the downtown business improvement area are closed, and that the new-found money may not be from tourists. They may want to do a study on that to find out just where exactly it is.

I also have people here from the Kingston area who would like to address the issue of students, if someone would like to question them on that.

I have been sitting here making notes this morning. Just as a final point, I would suggest that the trouble with business and with the tourism business these days—and I recognize that everybody is hard hit with the recession—but a part of it, and the final straw that broke the camel's back, was actually the GST. Yes, it sent people flurrying south of the border to shop, but it also stopped people, workers, from being able to shop for non-necessary items.

That is it. Thank you.

The Chair: Thank you, Ms MacKay. Before we start, I would like to remind committee members that our witnesses should be treated with respect. Many people have spent a great deal of time and preparation for their presentations and go out of their way to a great degree. While we have some witnesses, such as Ms MacKay, who are both articulate and quite resilient and quite capable of bantering with the best, I am sure, I think that for many people to have interruptions in the midst of their presentation can quite put them off. I would ask committee members to reserve their comments until the question time at the end of the presentation.

We are limited in terms of time: three minutes per caucus. Mr Sorbara.

Mr Sorbara: Ms MacKay, I am delighted to hear your presentation. I have enjoyed your company during the course of these hearings, and I regret that you are not going to be

with us for the rest of them. I also regret the intervention of the Chairman, but that is another story. And I regret that we could not have an hour together with you, because certainly the United Food—

Ms MacKay: I am open. If you have an hour, I would be happy.

Mr Sorbara: I think some of us have matters to attend to, but if you could come back this afternoon, we could expand the debate.

Ms MacKay: I will be here.

Mr Sorbara: Certainly the United Food and Commercial Workers International Union has been one of the real standard-bearers in this debate, and your presence throughout these hearings is an indication of that. Obviously it costs the workers money to have you here, and they have made a choice that you should be here, and I understand that a counterpart is going to be here as well.

Ms MacKay: There are WCB appeals, etc, for me to be here as well. It is not just financial.

Mr Sorbara: I think if we had an hour we could really engage in some interesting debate. We do not have that. I am restricted to about three minutes, so I am going to make some comments on your presentation.

With the indulgence of the Chair, the first is to object, frankly, rather strongly to the one part of your brief that I found offensive. It is the conclusion, where you try to tell us what our responsibility is as a committee. You say, "That issue"—the issue of Sunday shopping or not Sunday shopping—"was settled when the government voiced its commitment to 'provide for a common pause day to help strengthen the family and community life.'"

This body here is not the government. As parliamentarians, we are really free, if we did not feel a constraint by our political parties, to delve. In a free and democratic society, the issue is not settled until we as legislators in a free and democratic Parliament vote on third reading and the bill is given royal assent. The way in which Ontario's democracy is organized means the issue is not settled when a government makes a statement. That represents the government's intention. The issue is settled when a Parliament of freely elected representatives votes on a bill. Frankly, the trend in modern democracies is to try to give more freedom to parliamentarians to disagree with statements that governments make. That being said, and I wanted to put that on the record—

Ms MacKay: Can I respond to that?

Mr Sorbara: I am very limited. Actually, the committee is very limited, and we know why that is.

Ms MacKay: So then I should be asked a question, instead of you just making comments.

Mr Sorbara: No, because I have the freedom to make a comment and—

Mr Carr: Can you two argue at night? You are both going back and forth. He started it and now you are doing the same darn thing that you criticized him for. Let's get on with it.

Mr Sorbara: I would, but now I have about 30 seconds.

I want to tell you that I think your view on a strict definition of tourism is consistent with your view that most people should not have to work on Sunday. My own research, and my research while I was Minister of Labour, indicated that there is a very, very small group of stores which would qualify as having a market that is exclusively or predominantly tourist. I think that if you had that definition of tourism, most people would not have to work.

I think the great inconsistency in the government's position—and I would like to hear your response to this—is that if you really believed in a common pause day and a statement that most people should not have to work, what you would do—

The Chair: Ms MacKay has not got time to respond.

Mr Sorbara: That is up to you, Mr Chairman—what you would do is expand the right of workers, not just retail workers, to refuse work on Sunday. I would like to hear your comments on that. Why are you not advocating the incorporation in the Employment Standards Act of auto workers and miners and professionals and hourly employed people to have that right, and then we would really get to common pause day?

Ms MacKay: Do I have time to respond?

The Chair: No.

Mr Carr: I will give you some of my time.

The Chair: Ms MacKay, thank you.

Ms MacKay: Sorry, are you asking me a question that is separate from that?

Mr Carr: No, you can go and answer his statement, or whatever it was.

1200

Ms MacKay: Thank you. In terms of the common pause day legislation, if you look at all the briefs, and if you actually sit and listen to all the presentations we have been making, we have not been addressing the Employment Standards Act amendments. Quite truthfully, we do not believe you can write into a piece of legislation the right not to work on a Sunday, to have a common pause day. The only way we can see that you can enshrine a common pause day is to actually not have the businesses open.

We do recognize that some businesses need to open. In terms of the Employment Standards Act, the best we can do is hope that some businesses that were thinking of violating the law and forcing their workers to work will at least abide by that law, that the worker does have rights that would be written in the Employment Standards Act. But we have not been addressing it—

Mr Sorbara: What about closing retail businesses?

The Chair: Thank you, Mr Sorbara.

Ms MacKay: The Employment Standards Act amendments overall—we should be looking at that in that.

Mr Carr: As you know, having been around and seen some of the presentations, there is a significant portion in this province that will be open because of the tourist exemptions, and they have decided. So there will be Sunday shopping in this province; it is just a matter of how many municipalities. The common pause—

Ms MacKay: We fully recognize that.

Mr Carr: One of the concerns, of course, as you know, is tourism. I think in one of the presentations from your group yesterday they said people do not go into our stores and buy a head of lettuce. Some of the motel and other people are saying, when it comes to food workers, that people may come here to shop for retail goods, whether they be sweaters or trinkets or whatever, but they do not come for food.

I was wondering what your thoughts would be, because we are going to have it and your workers are going to have to work. Would you rather take another angle and maybe try to exempt food stores as being non-tourist-related? I wonder if you see that happening, rather than fighting to have everybody closed, including the retail sector, which is not going to happen, we have heard. Why not take the stand of saying, "They can open, but our workers will be protected because the stores in the food industry, which would not be affected by tourism, will be shut"?

That will be twofold, because what will happen—when we spoke with the chaps from the North Bay United Food and Commercial Workers, I guess it was, they said they have enough people working now but that they are on double time, I think it was. What they are concerned about is if everybody opens up they are going to lose that time and a half. I was wondering if you see working towards trying to get just your workers in the food industry to remain closed rather than trying to see everybody close, if you follow my drift.

Ms MacKay: No, we do not represent just people in the food industry, although a majority of our members are in the food industry, retail food.

Mr Carr: Predominantly food, right?

Ms MacKay: Yes. However, yesterday there was a worker from a men's clothing store from Ottawa who was sitting there with the UFCW presentation. The majority of people even in the retail food industry are not organized, and those in the balance of the industry as well are not organized. I was disappointed that the Retail, Wholesale and Domestic Workers Union could not attend yesterday, because they do represent more department store workers than we do. Unfortunately the presenter was ill and could not make it. However, there will be future presentations made by RWDSU on the very issue. I would suggest that you may want to address some of your comments to them.

In terms of retail workers, it again depends on the area. Yes, some people will buy groceries because they are camping or whatever. I think what you may want to actually check—and it would be easier to check at the border crossings, when you have Americans travelling back into the States or other people from other areas of Canada travelling into the States outside of Ontario—you may want to check and actually see what their purchases were while they were in Ontario. I would be surprised in many ways to think that there were clothing items. I think you will find more handicrafts and souvenirs, simply because the GST—the pricing system that we have in Canada far outweighs our competitive advantages over many in the US.

Mr Carr: On page 3 you quote Mr North saying that the "legislation strikes a balance in recognizing the need for a common pause day...while acknowledging the impact of tourism in many communities throughout the province." The UFCW not only disagrees, but "strongly disagrees." Is it not the case, really, that because of your ties with the NDP you are trying to be nice, but that you really do not like this legislation?

Ms MacKay: It is not that we do not like the legislation; it is that there are problems with the legislation. There were always problems with the legislation. If you look back, UFCW has been making representations on all the different committee hearings that have taken place over time, including, I think it was, the February 1989 amendments that went in. The legislation is obviously not written as we would write it. Even with these five suggestions that we are making, it still would not be written as we would like it, because yes, the ideal is a common pause day for everybody. However, that is not the reality.

The reality is there are some people who need to shop on Sunday in terms of emergency health care needs, grocery items in the convenience stores, the small corner stores, and legitimate tourist areas where those businesses derive their livelihood from the tourism business. We recognize that. We are not saying close those stores. We never have.

Mr Carr: Good luck.

The Chair: We have Mr Morrow, Mr Fletcher and Mr Lessard. That should be difficult to accomplish in three minutes.

Mr Morrow: Pearl, I want to thank our 40,000-plus brothers and sisters for such a fine presentation. You did a fantastic job.

You raised a point about students, and possibly I should ask—is it Warren on the end?—this question. I want you to elaborate a little bit. I understand that Kingston is a university town, there is a college here, and if I am not mistaken, somebody this morning said during the summer there would be lots of part-time jobs created, like at holiday seasons such as Christmas. My understanding is that most students go home on weekends, they go home in the summer, they go home on holidays. Can I ask you to elaborate a little bit on that?

Mr Kennedy: Yes, I would probably be best qualified, because I do the A&P store as one of my service calls. It is right beside Queen's University. That is where just about all of the students shop. The store in the summer and the two weeks at Christmas drops \$100,000 in weekly sales. Most of the students do not work in that store. Hardly any of them can find time to get jobs, because Queen's is so highly competitive they have to study day in and day out. They run a 24-hour operation in that store. It is nothing to see the students come in at 4 in the morning to buy something to eat because they have been up all night studying. Most of the staff in that store are not university students.

In comparison, in the store out on Gardiners Road, the newest store they have opened, they had to raise the minimum wage they hired people at because they could not get

students to go out there to get jobs because of the transportation costs, etc, that were involved. It is just the opposite; the store goes up in volume in the summer. But it is not a place for the students to work. They all leave town. Even the store manager at Christmastime took vacation because the store sales were so low.

Mr Morrow: Thanks, Warren. I have one more thing for Pearl. I have a brief submitted to the standing committee on finance and economic affairs on cross-border shopping on April 18, 1991. There is something I want to read and then I want to ask you to comment on it, if you do not mind.

"The UFCW knows that between June and November 1990"—when we had wide-open Sunday shopping—"202 full-time jobs disappeared at A&P stores in Ontario. At Loblaws, the total number of hours worked decreased by 3.14% in the period June to December 1990. In both cases, these losses occurred in spite of the brief advent of Sunday shopping."

Can you basically explain to the fine people up here about the actual job losses?

Ms MacKay: Yes, I can respond directly in terms of Loblaws, because that is where we represent the members. To actually come up with those statistics for Loblaws, just for your information, the 3.14%, we have a stack of schedules in the office now like this. We had a union rep go around to the stores and collect all the work schedules and actually do the statistical information in terms of what hours were lost. What it came down to is the overall week. During the period of wide-open Sunday shopping, it was an average loss of hours of 3.14%.

We are given to understand that the main reason is that there is the double time provision in our collective agreements for workers who work on Sunday. You have heard at previous hearings that where you have 70 or 80 or 100 hours scheduled on Sunday at double time, the managers were told, "Cut your hours during the week," because the bottom line is not man-hours or person-hours; the bottom line is dollars and the cost of wages. So what they did was provide less service and spread it; they actually provided less service to the public.

The Chair: Thank you very much, Ms MacKay.

Mr Fletcher: Mr Chair, on a point of order—

The Chair: I also have an announcement to make after we are finished dealing with that. Thank you, Ms MacKay.

Mr Fletcher: On my point of order, I am upset with the antics of the member, Mr Sorbara, and his lack of respect for the Chair that has been shown on this committee and today especially. I do not think that is called for.

The Chair: Thank you, Mr Fletcher. The short announcement I have is in regard to the subcommittee meeting. I think we are dealing with some scheduling issues and we would like to have the subcommittee meet at 1:20 before the hearings this afternoon. We are adjourned until 1:30. Thank you.

The committee recessed at 1210.

AFTERNOON SITTING

The committee resumed at 1333.

DOWNTOWN KINGSTON
BUSINESS IMPROVEMENT AREA

The Chair: Our first presenter, is from the Downtown Kingston board of management, Mr Tim Wilkin.

Mr Wilkin: I have with me Mrs Maudsley, a member of the public who has taken an interest in the issue. She will not necessarily be addressing the committee.

The Chair: We have approximately half an hour for your presentation; please divide that between your presentation and some time for members. I am sure many of the committee members will have questions for you, to pursue some of the lines of thought you may bring forward.

Mr Wilkin: First of all, I have filed with the clerk 25 copies of the submission I will be making today. I propose, if I may, to read this submission. It was prepared on the basis that I would be giving it in oral presentation, but it then provides a record for the members of the committee in terms of my comments, if that is satisfactory.

Mr Chairman, members of the committee, my name is Tim Wilkin and I am making this presentation to you in my capacity as chairman of the board of management for the Downtown Kingston business improvement area, known as the BIA. For those members of the committee not familiar with the concept of a BIA, it is a geographic area defined by municipal bylaw that encompasses the downtown business core of the city of Kingston.

The BIA is under the management of a board whose members are elected from representatives of all the businesses within the area and also includes four aldermen.

The mandate of the BIA and its board is to promote Kingston's downtown as a business and shopping area. Its activities are funded by a special tax levied on all businesses in the BIA in addition to their normal commercial taxes.

The Downtown Kingston BIA includes over 700 businesses employing approximately 10,000 people. The annual special levy raises approximately \$500,000 which, in addition to a wide range of promotional activities including the music in the park, if any of you have had an opportunity to see it today, is also used to repay the original \$1.5-million cost of the major renovations made to the downtown as part of a revitalization program a number of years ago.

In terms of our past experience with Sunday shopping, I can say that our experience has been both recent and intense. After the Court of Appeal decision upholding the present legislation, our board quickly presented a report to city council in which it was recommended that a public meeting be held for the purpose of considering a bylaw that would enable those businesses in downtown Kingston that wish to open on Sundays and holidays to be open.

The reasons for our recommendation were obvious. As both a tourist centre and border community it was absolutely essential that the retail community be given every opportunity to both serve its market and compete. In a community where people purposely come to relax, shop and spend money, being open on Sunday is simply a matter

of common sense and good business especially after a very difficult winter throughout the retail sector.

After nearly three months since the original recommendation, and despite some procedural shenanigans by those members of council opposed to Sunday shopping, the bylaw was finally passed three weeks ago. Under its terms, the bylaw permits Sunday and holiday openings in downtown Kingston between May 15 and October 15 for any stores with less than 7,500 square feet and eight employees.

Dealing with the proposed legislation: First of all, the issue of freedom of choice. Let me turn to the proposed amendments to the legislation and begin by saying the position of our board is that there is no need whatsoever for this or any other type of legislation that restricts Sunday shopping. The reason is simple: Sunday shopping is a freedom-of-choice issue. For the store owners, it is the freedom to choose to be open or closed; for the public, it is the freedom to choose to shop or not. Like so many other freedom-of-choice issues, it is a decision better left to the individual than the Legislature.

Attached as appendix to this brief is a copy of the results of a random telephone survey done by the school of business at Queen's University that shows an 80.7% level of support among area residents for the right of businesses to choose when to open. Results like that simply cannot be ignored.

The common pause day principle: After the original Lord's Day (Ontario) Act was struck down as unconstitutional, the concept of a common pause day became the basis for restrictive Sunday shopping legislation. In my submission, the notion of a common pause day in today's society is a hangover from the Ontario of 40 years ago and no longer reflects the current values, habits, or schedules of Ontario's citizens. Whether good or bad, there is no denying that we are now a seven-day-a-week, 24-hour-a-day society where two working parents, single working mothers, extended families and very busy schedules are the norm.

People live to survive from one weekend to the next and yet, with two days available to do the shopping and running around that none of us have either the time or energy to do during the week, the Legislature simply contributes to this time stress by forcing it to be done all on one day. It is not just the GST and lower prices that make Sunday the second busiest day for cross-border shopping, it is also the fact that people cannot get what they want when they want it.

If there is to be a common pause day in our society, why is it only in the retail sector and even then only part of it? For example, our experience in Kingston revealed that in the face of the current legislation we already had over 100 businesses downtown that were entitled to be open, yet in our attempt to expand that to include the 40 other businesses that wanted to be open, we were told by our opponents that to do so would threaten the concept of a common pause day.

I submit to you that if you truly believe in the principle of a common pause day, shut the whole province down,

close the hotels, the restaurants, the movie theatres, the convenience stores, the book stores, the small grocery stores, drug stores and factories. But if you are not prepared to do that, do not discriminate against one sector of the economy on the pretence of preserving a common pause day that does not exist.

1340

Employment standards: Another principle upon which restrictive Sunday legislation has been enacted is the alleged necessity to protect the rights of retail workers. But what about the rights of those people who want to work and need to work on Sunday? Given that most new jobs are created by small business, why not start thinking of the retail sector as one large employer's union rather than a sector whose employees need special protection?

Furthermore, if large segments of our economy are already entitled to be open on Sundays, why is it that retail workers need special employment standards legislation better than that which already exists for those retail workers who now work on Sunday? If you must protect existing employees, I urge you to not kill the proverbial mouse with an elephant gun. Carry through the proposed amendments to the Employment Standards Act, but do not shut down a whole sector of the economy simply to enforce employment standards.

Assuming the rights of employees can be protected by employment standards, leave the decision on when to open and close with the individual best equipped to make that decision, the business owner. It is the entrepreneur that risks everything he or she has in hope of achieving success through competing in the marketplace. Do not undermine that ability to compete or opportunity to succeed by restricting the days and times when business can best serve its customers.

Proposed regulations: To the extent that the legislation creates a tourism exemption and sets up through its regulations criteria by which a community qualifies, it is hard to imagine how Kingston would not qualify on any one of the six categories. Nevertheless, it is the position of our board that both the concept of a tourist-area-only exemption and the qualifying criteria are unfair. First, if the principle of a common pause day is so important, why does tourism justify an exemption? Reading from the minister's statement accompanying the legislation, it seems the economics of tourism for local communities justifies a different set of rules.

What about non-tourist border communities? Does the impact of cross-border shopping on their local businesses not also justify an exemption? And what about those communities surrounding tourist centres? Does the opportunity for merchants in the tourist area to be open on Sunday not provide an unfair advantage over their competitors in surrounding communities? Maybe not, if one could be assured that the only people shopping were tourists. That, however, will not happen. Local residents with needs on Sunday will use the services of those stores open at the expense of those that cannot be.

Second, it is our submission that the categories for determining qualification for the tourist exemption are so subjective that the results throughout the province will be inconsistent and therefore unfair. In our submission, these

categories can mean anything to anyone who wants to interpret them for his or her own purposes. Our own experience with Sunday opening clearly corroborates this. Despite Kingston's dependency on its number one tourist industry, there was a significant faction of council opposed to Sunday shopping for a myriad of political and personal reasons.

Finally, why does the legislation discriminate against those stores greater than 7,500 square feet and employing more than eight employees? Does it suggest tourists do not buy furniture, hardware, groceries, clothes and sundries? Certainly, the ones from Kingston who go to the Salmon Run Mall in Watertown, New York, every Sunday do.

Furthermore, who is to say whether these businesses provide services on holidays primarily to tourists or not? What particular skill or knowledge do members of council possess that entitles them to make these decisions? If an area is to be designated as a tourist area, then let all the stores in that area be open and let the market dictate who stays open and who closes.

In summary, it is our submission that the consequences for small business of such an important issue are simply too great to leave to the patchwork results of individual council decisions.

Recommendations: In conclusion, the following are the recommendations of the board of management for the Downtown Kingston business improvement area.

(a) In recognition that Sunday shopping is a freedom-of-choice issue and that the concept of a common pause day is a myth, scrap the proposed legislation and repeal the existing Retail Business Holidays Act.

(b) In order to address concerns about the rights of retail sector employees, enact the proposed amendments to the Employment Standards Act.

Subject to questions, those are my submissions.

Mr Sorbara: I first want to say that the quality of work of the business improvement area certainly is visible and I can attest to that as a tourist, as a visitor and as someone who had an opportunity to walk around the downtown area last night. You are doing a marvellous job.

By the way, that same quality is reflected in this brief. Now and again during public hearings we have the benefit of a presentation that is extremely well-thought-out, articulate and to the point. I just want to suggest to you that this qualifies as one of them, an excellent analysis of the bill, even on matters where you and I perhaps might disagree.

Let me point out one matter I think is very telling. On page 6 you talk about proposed regulation. You argue that in fact Kingston could if it wanted to take complete advantage of the regulation and be able to have, in a sense, unfettered discretion to open under the guidelines being proposed by the government. Nevertheless, you are arguing that it would be unfair to do so. I think probably the unfairness of this legislation and the arbitrary criteria it establishes community by community is the real problem at the heart of our opposition to it.

Second, you say at the bottom of page 5, dealing with the Employment Standards Act, that it is simply foolhardy to imagine that in order to offer a measure of protection to a sector of workers you need to shut down the industry. There again, the debate is really joined because the United

Food and Commercial Workers International Union and those who support this approach say the only way to protect workers is to shut the industry down. We disagree with that and our disagreements arise periodically.

The one thing you did not address, and I would like you to address in an oral answer, is the question of the cost of compliance with the legislation. Unfettered discretion to open or close based on market conditions, in my view, reduces cost. Compliance with technical provisions in a bill like Bill 115 is going to be very costly business by business and community by community for the retail sector. Do you have any views on that?

Mr Wilkin: First of all, the cost on a business-by-business basis presumably applies to those businesses in excess of 7,500 square feet who have to apply on a case-by-case basis, so I agree there is a cost. I can only reflect on the time our organization has spent and that I personally have spent, separate and apart from my own business, in making presentations like this before council and before public meetings and so forth. It is a very time-consuming exercise. To that extent, it is a costly exercise, but we believe strongly enough that we are prepared to push it. Frankly, we would rather do without.

Mr Sorbara: I expect I have no more time.

Mr Carr: As Greg said, a fine presentation and I, like some of the other members, had a chance to walk around. As a matter of fact, I was going to come back and say we should hold the hearings outside while we are listening to the people out there because it is such a great day.

One of the concerns I have is something you have raised in here, that the decision by municipal councils will be subjective. I think you mentioned your particular circumstances here on page 2, something about procedural shenanigans and so on. I was just wondering if you could fill us in on some of the things that may happen, because the way I see it happening is most of the community—and I may be naïve in this—the council will take the will of the people and carry through with it, when it is subjective like that. What do you mean are some of the things that can happen?

1350

Mr Wilkin: We first put forward our recommendation to council in a report within, I would say, two weeks of the Court of Appeal decision, and we made the recommendation under the current legislation to hold the public meeting, just begin the process of soliciting public input on the issue of Sunday shopping before you make some decisions on a specific bylaw.

Without getting into personalities on council, it took something in the order of two months before that public meeting was even convened. That was despite resistance from individual members who, in our opinion, clearly were not even interested in going to the public meeting process for, I presume, fear of hearing the sorts of results of the survey that Queen's school of business did, which was that about 80% of the local citizens think it is a freedom-of-choice issue.

Just through delay and postponement and obfuscation they managed to stretch the thing out. We finally got a public meeting on July 2, so now we had lost the May long

weekend and we had lost the July long weekend. We went through the public meeting. It went to council a week later and, unusual for municipal bylaws, it only got two of three readings because there was not a sufficient majority to give it three readings in one meeting.

It was then automatically kicked off for three weeks. At a special meeting called to consider things other than this issue, the opponents brought it back on at 11:30 at night and said, "Let's decide on it," knowing that the mayor and one other member of council who supported Sunday shopping were opposed. Fortunately, one member of council who had previously opposed Sunday shopping did not like their tactics and the tables were turned on them and it was approved two weeks earlier than they thought, thinking they could slide through an opposition to third reading.

So in fact we got Sunday shopping about two and a half weeks ahead of when it looked like we were going to get it, but at that point it was mid-July. Our organization organizes what can now be classed as an international buskers' festival. We have acts from all over North America come here for a five-week busker festival. We had 4,500 people in this park down here in front of city hall on the Sunday afternoon for the finale and the stores were not allowed to be open. You could not walk around town for the people down here and yet the merchants, who have an investment down here, have to sit there with their doors closed.

There were stories in the paper. The merchants could tell how good a day Sunday would have been by the noseprints on their windows coming in Monday and finding the tourists walking around staring in the stores and shaking their heads and saying, "I can't believe the place isn't open." That is despite what can only be considered the premier tourist centre in the province, or I like to think it is, having to put up with that for two and a half months.

If these criteria were objective criteria whereupon you automatically got your bylaw, I would feel a lot happier about it, but it is not. It is a guideline and it is subject to the whims of personal politics and issues.

Mr Mills: Thank you for your presentation. I have read it and I must say that a statement on page 4 has given me some cause for a degree of alarm. You say in there that the notion of a common pause day in today's society is a hangover from Ontario 40 years ago and no longer reflects the current values, habits or schedules of Ontario citizens.

We have been going around the province now and in Toronto for two and a half weeks and we have had some very well-put presentations from religious groups, church groups, ministers, one fellow who was a bishop, I think, and I have difficulty when someone makes such a statement as that. I would remind you that in the last census that was taken in Canada, 87% of the people who live in Ontario said they were Christian. I was just wondering, when you make, in my opinion, such a far-reaching and perhaps outlandish statement to say that we are living in a hangover from the Ontario of 40 years ago, how you came to arrive at that position that we are living in some bygone era.

of chairman of the Kingston Ministerial Association, where we have some 120 Roman Catholic and Protestant churches.

I recall some 20 years ago, up in Ottawa, presenting a brief before the royal commission on what was called the Lord's Day Act at that time. Now we have come 20 and more years beyond, and we are putting ditto marks under the particular hearings that were conducted at that time across the province. I think it is important that we have them, and that we look away, and look at this situation. I do not have a prepared brief for you. I was away the last 10 days on a speaking tour and came back and found the hearings were here today. I appreciate the privilege of being with you to share just some basic thoughts.

I think we have to look at what has been chipping away at things that have made our nation very strong. I simply reiterate what has been said by the last two presentations at least, that basic to our society is the stability of the family. There are many forces at work, not simply the issue before us here, many forces at work seeking to break it down: ideological conflicts, the child increasingly, so far as the court is concerned perhaps, coming to be regarded as a ward of the state rather than the responsibility of the family and the authority of the family. We need to look, and we need to examine. We are a multicultural situation. We cannot simply quote something that may be very fine and dear and precious to some of us, so far as a commandment about a Sabbath day is concerned. We look and say in our multicultural society, what about the family, its place, its way of protection? What about forces that want to chip away at it? Whether I am from the far east, from China, whether I am of Jewish extraction, of Christian background, in all of those cultures the stability and the security and the transmission of culture has come basically within the family circle, that family circle that was homogeneous and provided a cohesive force and a place of security.

Now I look at what is happening in our culture today and I raise the question, with you men and women, of values. I think really the issue is much deeper than simply the superficial bottom line of dollars and cents. I think it is one of values, and I look at you folk who have been elected to responsibility and I ask, are you simply to reflect what you feel this segment or that segment of society wants, or in a representative government have you been elected to be architectonic in character, that is, to say, "These are values and we are going to find the proper way in order to protect those values for our society"?

I think Canada and Ontario are hungry for—I was going to use a stronger word—desperately in need of leadership at the legislative level where men and women will be willing to look squarely and say, "Yes, these are things about which we have conviction," regardless of pressures, maybe regardless even of the next election. While you are in office, you will make those votes and make those decisions that you feel will protect the values that have made Canada the nation it is and can continue to be if we protect those values. In that, and very basic in it, and at the heart of it, in my thinking, is the family. In connection with values, you have to ask, what is expendable? Is the family expendable? Are these things expendable—time together, all of that—in

order to achieve a few more dollars at the end of the ledger? What are our goals in life? We have to ask that.

It would be superfluous to go over what has been reiterated in the last couple of presentations, and certainly as a matter simply of record, that only so much money is going to be spent. The days on which it is spent, the overhead involved, all the rest—that is a matter for others to present to you. But I look at the drift in our society today and, speaking on behalf of the churches, on behalf of myself, on behalf of the church that I have the privilege of pastoring, I say we look to you to stop that drift of the breakdown of family.

You look at the values and our heritage, and we look at a common pause day. The old fable that all of us learned maybe back in elementary school days, public school days, of over in the Middle East, the camel that got its head in the tent, and then after the head was in, finally the fore part of the body got in. Finally, the person who lived in the tent was pushed out and the camel was in the tent. I look at what is being done presently so far as Sunday observance, a common pause day is concerned. Sure, we open the stores and families can walk up and down and do window-shopping if they are not buying, and in the materialism and commercialism of our day they are missing some fun they might have as a family. They are missing opportunities. Somebody is having to be absent from his family in order to care for those people as they walk through those shopping centres, someone who, though we may say has choice, finds that he does not have choice when it comes to holding that job over a long period of time, if he will not go and work on Sunday when the boss wants it, when the establishment wants it. And we look at that and we say, "Well, what about it?" and then the two-income families and all that is involved with husband and wife until finally there is not a common day that everyone has.

Coming back to my camel, we open the stores, then the real estate offices will want to be open, then other offices. Maybe we would even open the schools on Sunday, and that can come. There is pressure for that in some of the states south of the border right now, and I hope in Canada we can cut a different line. But here we are face to face with the fact that that is a wedge and then there will be more chipping away and more chipping away, until finally we have lost that which, from my point of view, got established even in the secondary laws of nature.

In the Second World War—and most of you were born after pabulum, so you do not remember the Second World War—when they began to work machine shops 24 hours a day, seven days a week, they discovered that metal was wearing out. There was a metal fatigue. Our physicists had to go to work on it, because even in nature itself, in the inanimate of physics, there is planted the thought of the necessity of rest—and it is here. If we can forget the dollars and cents for a moment—and that is hard to do in a materialistic culture—and look at the values, we will discover that there is something of much more worth: the rest that would come to the family, the lack of emotional strain, the release of tensions. The person in the workplace and the person in the commercial establishment is going to be infinitely better off in production than they would be if we worked them seven days a week.

I would just plead with you folk to listen carefully and, having listened carefully to different segments of society, then make an evaluation, not simply on the basis of what this pressure group or that pressure group might want, or even of the next election, but make your decisions as representatives who have been elected to make decisions in this type of government and society on the basis of the convictions that you hold and that which you feel will best serve the interests of our society.

Thank you for the time you have allowed.

1500

The Chair: Thank you. One question per caucus again. We are short of time.

Mr Sorbara: Reverend, that was certainly an articulate and eloquent presentation. I do have one question for you, and that is this. The government has articulated a belief in the common pause day. They say they want to bring about a common pause day. In doing that, what they have done is present a piece of legislation which does a little bit of tinkering with the Retail Business Holidays Act. Right now what exists is an unfettered municipal discretion and the government has fettered it a little bit with some tourism criteria, and it has tinkered a little bit with the Employment Standards Act provisions for retail workers. In my own view, if you want to bring about a common pause day, close down significant parts of economic activity and give all workers the right to book off. In your view, does this bill, Bill 115, which tinkers a little bit with the two pieces of legislation, make a significant dent in the objective of bringing about a common pause day in Ontario?

Mr Seidenspinner: Yes, my concern is when you begin to tinker with it and begin to make exceptions, then, I understand, dealing with people—and I have spent my life dealing with people, institutionally many times—you have to make further exceptions and further exceptions and finally you arrive again at zero.

Mr Sorbara: With the camel right in the tent.

Mr Seidenspinner: That is correct. There is no reason why it cannot be a complete pause day.

Mr Sorbara: So there is a distinction between their views on a common pause day and what they have done in this bill.

Mr Seidenspinner: That is correct.

Mr Carr: Thank you very much for your presentation. In order to achieve the objectives you are looking for, I take it then you also would like to see the responsibility remain with the provincial Legislature. If so, is the best way of doing that to kill this bill entirely, or to come in with a tougher law saying that nobody can open?

Mr Seidenspinner: Let me answer that in an A and a B. Yes, I would feel that this ought to be a provincial matter, for the reason that if it is not and it is allowed to rest with the communities, then you once again arrive at the pressure of competition between those communities. Kingston does one thing, Kingston township something else, Verona something else. Ottawa, an hour's drive away, does something else. No, I would like to see the government

have the courage and strength of conviction to make a province-wide ruling on that. That would be my feeling.

Mr Fletcher: I was listening to most of your presentation. I remember before I got this job I had a lot more time and I was the leader of our church youth group. The strange thing was that whenever we had discussions centring on a lot of things—and a lot of it was not only peer pressure but relationships with the family—one of the recurring themes that always seemed to come up was, "My parents don't have time for me." That was a common theme going through. If we do not do something, if we do not tinker with this legislation, are we going to get anywhere as far as trying to get a common pause day if we do not start some tinkering somewhere?

Mr Seidenspinner: It depends on what you do by way of tinkering. I know what you are talking about concerning the family. I brought an address last week out in St Louis on preparing leadership for the 21st century. There was a group of people from across Canada and the United States there. In the course of it, I put in a strong plea—those were church leaders—for them to re-establish the whole concept of family within their churches, and to train leadership and to train parents to take time. You can legislate, but finally the work has to be done in other groups and in other ways and cultures.

Mr Fletcher: And if we had the support of the opposition parties, perhaps we could do something like that.

Mr Seidenspinner: Yes. I hope that support will be there. I think it will harbingers well for what would lie ahead in our provincial life.

The Chair: I should mention that the answers from the Ministry of Labour to Mr Sorbara's questions of yesterday have been faxed, photocopied and distributed, I believe. The questions Mr Sorbara put yesterday in Ottawa have been faxed to us from Toronto.

KINGSTON AND DISTRICT LABOUR COUNCIL

The Chair: Our next presentation is from the Kingston and District Labour Council, Mr Charlie Stock on its behalf. You have been observing our proceedings for a while, I see, so you are aware that you have half an hour and can divide the time as you wish, but many of the members will be interested in posing questions to you. Please proceed when you are ready.

Mr Stock: My name is Charlie Stock. I am president of the Kingston and District Labour Council. On behalf of the Kingston and District Labour Council I would like to welcome you all to Kingston. It is a pleasure to have the opportunity at any time to speak to the government on things of interest to working people. It is of note that the Premier of the province is in Kingston later today to talk to senior citizens at a convention and it is nice to see that the government of the day is interested in people who will be the future retirees of this province and country.

I do not have a brief per se to hand over to you, but I want to go on record on behalf of our labour council, which represents just under 10,000 working people in this area of all sectors, not just retail, as endorsing the brief which was prepared and which you heard this morning from the

United Food and Commercial Workers International Union. I believe it was given by Pearl MacKay.

We, as the executive of the council, have dealt with the Sunday shopping issue for some time, and went on record as being opposed originally to Sunday shopping. After many meetings with our group, with municipal politicians and different leaders and people in the community, we came to the conclusion that the points of interest regarding Sunday shopping on behalf of the working people we represent were covered quite well in the brief presented or put together by the United Food and Commercial Workers.

We took the portions of the brief that were put together, the information that the United Food and Commercial Workers had gathered, to the membership of our labour council and we debated it. It was endorsed by our labour council. Our position was then made known to the city of Kingston, which was at that point gathering information in conjunction with the downtown business community and people in our area, as to what we would like to see or whatever. We went on record as endorsing the UFCW position. Since that time, it is my understanding that the Ontario Federation of Labour went on record supporting the points in the UFCW brief.

As working people, we think it is imperative that we have a common pause day. A lot of workers whom we represent are industrial sector, manufacturing sector, not retail. I know we are only talking retail sector today, but it is our hope that in the future the common pause day would be enshrined for all sectors if possible, through whatever legislation is necessary.

We agree with the UFCW that we would like to see an increase in the minimum fine so that, if there are people who want to open, rather than them taking the money out of the surplus profits they make for the day, it is significant enough to deter that type of activity.

We see enough families in turmoil in our area. It is not all related to Sunday shopping, but it is one more issue that compounds the troubles families are going through right now. Whether I listen to church groups, the Salvation Army, the United Church, the archdiocese or whoever around here, we all seem to have problems with families, trying to get our families' livelihoods taken care of. We look forward to the government of the day doing whatever it can, whatever small measure on the issue they are dealing with today, to help working people have a common pause day, to try to make up for some of the tough times people are going through right now.

If you have any questions I will try my best to answer, or you can refer to the previous brief with Pearl MacKay, or Mr Warren Kennedy here, from the retail sector, as I am not.

I work for Northern Telecom. It is in the manufacturing sector. I do not have—the people where we work—a choice of perhaps working on Sunday or not, but at least we can look at a shift schedule and tell you in advance, probably close to a year ahead of time, what days off we are going to have with our families, as opposed to a retail person who gets a schedule on a Thursday that tells him where he is going to be on Sunday or Monday. It is not very far into the future to make plans for your family.

If you have any questions that relate more to the retail sector that you want more knowledge or background on, I would refer you to Warren Kennedy or Pearl to supplement what I am saying here.

1510

Mr Daigeler: I appreciate that you are coming forward on behalf of the district labour council, not just the retail workers and the food and commercial workers. You actually touched in your own final remarks on the point that I wanted to raise with you. I guess there are some major manufacturing or industrial businesses here in the Kingston area where workers have to work on Sunday. Are there others than your own? Are the workers there taking the same approach you do, that even though you may have to work on Sunday, that does not mean other people have to work as well, that they should have that right?

Mr Stock: Yes. It has been dealt with where I work. I would say I represent workers. I am the president of my local union on top of being president of the labour council. My local union represents five different groups of workers, people in heavy industry, making wire and cable at Northern Telecom, office workers at Northern Telecom, workers at Bosal Canada who make exhaust systems, UTDC people who make military vehicles and UTDC that make the rail cars in Millhaven, of which the current government, I understand, has some interest.

The people in these places who have to work shift work realize ahead of time. They are compensated in a very fair fashion as far as getting a pause day or much better notice of time to be with their families. Given a choice, they would much rather have Monday to Friday, with the weekends, but if you shut some of these factories down, you are going to take away people's livelihood for three or four days later, because you have to turn around—as at Dupont, locally, if you stop the process of making nylon, then you have to turn around and redo the whole place. You have to clean the whole thing out.

At Northern where they make wire and cable, you cannot just arbitrarily shut something down that quick and move it back open, because you turn around and you have hot plastic extruders. It does not make good business sense to have to go through that. It is a tragedy to do that because you are taking other people's livelihoods away, as opposed to somebody wanting a loaf of bread or a quart of milk on a Sunday. It is not necessary to have a large place open to turn around and do that. You can have plenty of small places trying to survive currently to do it that way.

Mr Daigeler: You do not think it would be possible in the retail sector to give the same kind of protection and flexibility in terms of shift work or Sunday work that you enjoy?

Mr Stock: No.

Mr Daigeler: Why would that not be possible?

Mr Stock: It would not be possible because—I think a previous speaker talked about it—it may be just somebody who is off in some boardroom somewhere talking about how can we do it to the working people next. How many more part-timers can we put in? How many more young people can we get to give up their time? They should be trying to prepare a future for themselves and

what not, and instead they go out there and work part-time for the least amount of money.

That seems to be the trend we see when we look at retail workers and what happens, as what was a failed effort here previously in Kingston township and around the area with some of the large supermalls. It did not create any jobs; it put more of a burden on the young people. For the most part, the people who manage those stores did not want to and they went on record as not wanting to open, but they were told by somebody very much higher up that this is the way it would be. It was not the thing people wanted in this area at all.

Mr Daigeler: I appreciate you are saying that it came from on high. On the other hand, we had this morning people from the business community around here, the business improvement association, the chamber of commerce and retailers. They did not seem to me, at least not here in Kingston—we did have the larger retailers in Toronto—but these seem to be all independents and individual employers, and they were very strongly arguing that they want to be open.

Mr Stock: After much debate, it was not an overwhelming majority issue, it was something that some politicians municipally may pay a price for later, come the fall. However, the idea of the downtown business core in some instances wanting to open, the recommendations if you have small places—the exceptions I do not think go against what the UFCW brief is trying to pursue, and that is to ensure a common pause day, to try to make things better.

The recommendations, I believe, say there has to be no more than four employees and there was a specified area of 2,400 square feet or whatever of business space. For the most part, some of these small places belonging to the downtown independent business or whatever their group is called may have come on very strongly in support of that. But in the bylaw that was passed in this area there are some other stores, like the large chain grocery stores and different things that could all of a sudden say, “Well, if it’s okay for them, it’s okay for us.” Therefore, it is putting other workers in jeopardy and we are totally opposed to that.

Mr Carr: I was reading some of the information we received from the research people that asked the question—and this is what we received from Ken Morrow on August 9—“Of all these things the NDP were going to do, do you agree or disagree?” When the question was moving to prohibit Sunday shopping, it was interesting, they broke it down into union households versus non-union, and it was approximately 50-50, if my math is correct. What do you say to the 50% of union workers who are in favour of Sunday shopping? Obviously, within your membership, you have a tremendous debate on your hands. What do you say to that 50% who want it when you are saying we should not have it?

1520

Mr Kennedy: The majority of the people who do voice the opinion that they are in favour of Sunday shopping, and consequently themselves working, are only doing it because they are being paid double time, not because they want to be there. These people who are getting two and

three days because they only work part-time and one of them is at twice the rate of the other days think that is great, but most of those people are also working two or three days somewhere else, just trying to earn a living.

These Sunday shopping hours that have expanded the number of hours that a normal store is open are killing the full-time jobs that would have been available should people be working Monday to Saturday without these Sunday hours included. The shift in the money and the business to Sunday has taken away the voluntariness, because somebody has to work, so you either are forfeiting hours by not working Sunday or you are working Sunday to make ends meet, and that is really what we are against.

Mr Carr: They asked the question, “Who did you vote for in the last election?” too, and of the people who voted for the NDP, it was about 50-50 as well. In other words, 50% of the people said they supported the NDP. As you know, if they asked, “Would you like to work on Sunday?” most people would say no. It was just an open-ended question. The question was, “Should this government move to prohibit Sunday shopping?” and what you got is about a 50-50 split. That is not unlike what we see across the province, union, non-union, NDP. So many in the union ranks are in favour of Sunday shopping. Is your data different? You know your members better than anybody else. Do you think more of them are in favour of Sunday closing?

Mr Kennedy: The last percentages I saw, I believe in March of this year, about 42% of the people were in favour of the Sunday shopping, but about 78% were against Sunday working. The percentages on that election that you just quoted, 50-50, are astounding, because when the Liberals and Conservatives were elected, it was more like 30% of the people would admit that they voted for them.

Mr Sorbara: A little bit of politics makes the day interesting.

Mr Carr: I guess the bias is coming through, although I was up in Muskoka, in the fine area up there, and I think we should have a recount, because we had a town hall meeting and I could not find anybody who voted for them. But putting that all aside, there are NDP supporters and Conservative and Liberal, and it breaks down pretty much the same.

One of the reasons this government proceeded with this legislation is they said it was an election promise. What this would seem to be saying to me is that this was not a big issue in the election. People did not vote for the NDP on the Sunday shopping. I was just wondering if you could comment on that, what your thoughts were or the membership, whether they see this as one of the big issues of a common pause day as opposed to all the other issues that were out there. Is this a big issue?

Mr Kennedy: Yes. As a matter of fact, our executive board, for a good example, had put a motion on the floor at our executive board meeting that we would not pass any money to the NDP until they got this settled. I do not know if the NDP is aware of that.

Mr Carr: I was not. They are not going to give money to the NDP?

Mr Sorbara: I did not hear that.

Mr Kennedy: We are not going to give any more donations until this got settled. That is an indication to you, Mr Carr, how big an issue it would be, and I would sure think the NDP would be listening as well.

Mr Carr: That makes it a big issue.

Mr Kennedy: It is a big issue.

Mr Sorbara: Is that why they are pushing this so hard, because of money?

Mr Fletcher: My question is to Mr Stock. What union do you represent?

Mr Stock: Canadian Auto Workers.

Mr Fletcher: You were saying that you know a lot of employees who have to work Sunday, they are in the industrial sector, and you would like to see a common pause day for every working person. I am not sure if I heard that correctly.

Mr Stock: It would be nice. I know that some labour legislation perhaps is going to be looked at before this government is finished fulfilling its mandate, and if there is something there that could ensure that kind of thing for more working people in this province, we would certainly be in favour of it.

Mr Fletcher: As far as the employment standards part of it, the amendments to the Employment Standards Act, do you have any comments on that? Do you think it goes far enough? Is there anything we can do to make it a little tougher or to enforce it?

Mr Stock: In regard to?

Mr Fletcher: The refusal to work on Sunday. You know what it is like to refuse unsafe work.

Mr Stock: I guess with any legislation, if you look through all the different exceptions, it looks good until you look in the regulations, and then what you think you have in one hand seems to go out the other hand. Maybe rather than going from the front to the back when the government takes a look at this, perhaps you should start at the regulations and then work your way back through what the original intent was for the legislation.

Mr Fletcher: Do you agree with the employment standards amendment to allow workers the right to refuse?

Mr Stock: Yes.

Mr Fletcher: As far as the tourist exemptions are concerned, do you see that creating any problems with workers? If they do have the right to refuse, is that going to create a problem? Do you think there is going to be coercion?

Mr Stock: I do not know. When you look at the tourist exemption in Kingston in particular, it has been an issue as far as getting people to come here. We have had more of a problem, to my mind, with people going across the border because of some of the other politics that are happening in this country of ours. I do not think the two are related. I think we ought to be careful as far as the tourist exemptions go because a lot of people might be crying wolf here.

Mr Fletcher: Using the tourist exemption just to try to open their store?

Mr Stock: Yes.

Mr Lessard: I have a question that I was going to ask Pearl MacKay about earlier today, but I did not have an opportunity. I do not know how you feel about the tourist exemptions after answering Mr Fletcher's questions, but would you not agree that in a city such as Kingston, tourism is a vitally important industry, at least during the summer-time, something that does need to be encouraged?

Mr Stock: We think that Kingston is a terrific spot. I think Kingston does a superb job of promoting tourism. I think there is room for tourists here. Six days a week they can enjoy the stores here and on the seventh day they can just enjoy Kingston, because it has a lot to offer without having to go shopping.

Mr Kennedy: Mr Chair, on a point of information. I just said that was brought up at our executive board meeting. It was voted down, the issue about the money for the NDP.

Mr Sorbara: Mr Chairman, I would like to pursue that point by way of a point of order and a point of personal privilege. This is a rather serious matter. I know that the witness said something inadvertent, and I hope you will indulge me for just a couple of minutes. I heard the witness say earlier in his testimony—

Interjection.

Mr Sorbara: If I might, this is an important matter. I heard the witness say, "We have decided not to give the NDP any more money until this is passed." As a matter of privilege and as a matter of order, under the Criminal Code of Canada, there are provisions respecting influence-peddling. Although I do not have the precedents here, it is contrary to the Criminal Code for a politician at any level to undertake to pass or promote legislation if his purpose in doing that is to receive remuneration. Conversely, I think arguments have been made in court that the threat to withhold money can be construed as influence-peddling.

Notwithstanding that the witness presented both positions, that is to say, "We have refused to give more money," and "We have voted that down," I am not sure now what is the truth. If it is the case that within this local labour council or labour councils generally or the trade union movement there has been a threat to withhold money as a result of the consideration of this legislation until it is passed, this is a very serious matter.

1530

This committee is charged, in its responsibility for considering bills under the administration of justice, with bills like the conflict-of-interest act. I would ask you, Mr Chair, to refer this matter to the Attorney General of the province for consideration. If it turns out that there has been a threat to withhold money from a political party or from politicians as a result of the consideration of this bill and, as was suggested, until this legislation is passed, that warrants consideration by a crown attorney in the province of Ontario and by the Attorney General himself. So I would ask you to refer that matter to the Attorney General. It is deadly serious. That, in my view, at least can be construed as influence-peddling in the province of Ontario under the Criminal Code of Canada, and I would ask you to direct a reference to the Attorney General on that matter. If it is

appropriate that I make a motion in that regard, I will do that. I will take your advice on that.

Mr Fletcher: On the same point of order, if I am correct—and I believe I am—when a union such as the United Food and Commercial Workers gives money to the NDP, it is in the form of a political donation, which is open to any political party. We know that the Liberals and the Conservatives receive donations from corporations—

Mr Sorbara: Individuals, unions.

Mr Fletcher: And individuals, the same as the NDP, and unions. Sometimes those donations are withheld, sometimes they are withdrawn and sometimes they are given in. As far as I know, I had no knowledge of this. I do not think anyone in this committee who is a New Democrat had any knowledge of what was going on. It was voted down at their union meeting in a democratic way. What they were talking about was not a gift of money, it was their regular donation which they usually donate to the New Democratic Party. There is no collusion, no way that the money is playing any part in this, and I cannot understand why Mr Sorbara would be even thinking that way.

Mr Sorbara: Just to speak to the point of order, I do not think this committee today can stand in judgement. There has been a suggestion in evidence before this committee that a threat to withhold money was made to a political party and obviously, therefore, to politicians, until such time as a particular piece of legislation was passed. Whether or not that threat was a serious threat, what the determination of the trade union or the district labour council was is a matter that ought to be investigated by the Attorney General and a crown attorney, and a decision as to whether or not a prosecution should proceed should be made by them. What I am asking, as a result of what we have heard before this committee, is that the matter should be referred to the Attorney General.

The Chair: You have raised a point of privilege. It may well be a legitimate point of privilege. I will have to look at Hansard. The issue, of course, of whether that particular issue was communicated to anyone is also another significant issue.

Mr Sorbara: We cannot stand in judgement of that.

The Chair: You are quite right, that is not our task. I will take that request under consideration and will check out Hansard as soon as I can. I will reserve judgement until such time.

Mr Stock: I would just like a point of clarification, if I might.

The Chair: Is it on this point?

Mr Stock: Yes, it is, because reference should not be made to the Kingston and District Labour Council as doing anything. Three times Mr Sorbara said that this local labour council was doing certain things or may be doing certain things. For the record, Kingston and District Labour Council has never and will never enter into that. The remark was made on behalf of an affiliate of a local group which is totally outside the realm of Kingston and District Labour Council. Just so the record is clear on that.

Mr Sorbara: Just to be perfectly clear, I would not want to suggest to you or impugn the motives of the district labour council. What I did hear though is some reference to some trade union or some local threatening to withhold money or withholding money. I am not sure to whom the reference was or by whom it was made or whether it was serious or frivolous, but if it is true, it is a serious allegation. It could amount to influence-peddling under the Criminal Code of Canada. We are not allowed to stand in judgement of that, but a crown attorney ought properly to investigate it.

The Chair: I think we should leave that point at this point. Thank you very much, Mr Stock.

Mr Sorbara: I mean no disrespect to the district labour council.

JAMES E. ANDERSON

The Chair: Our next presentation is from Jim Anderson. You have been patiently observing these hearings, so you are aware you have a quarter of an hour that can be divided up as you see fit. Please proceed when you are ready.

Mr Anderson: This will not take long. I wish express my opposition to wide-open Sunday shopping. As I have been a manager of a national chain for 30 years, I feel we need a common pause day. I will not have the option of refusing to work on Sunday, as a manager. I am a labourer too, not an owner.

If our shopping centre remains open or my company says the store will be open, I must be available for these hours. If my staff refuses to work, their right by law, that means I will be required to work every Sunday. As I am already required to work every Saturday except for two weeks during the summer, this does not give me much free time with my family. My day off is during the week. My wife is off Saturday and Sunday. Some people may say, "Why not get another job?" This is not very practical at my age, nor is it practical for the length of time I have been in retail, with retirement just a few years away and a pension at stake.

The freedom to open or close on Sunday remains with the owners, not the people left with the responsibility of staffing the store. The willingness to work on Sunday will be a necessary condition of employment for new employees, and it has been my experience that they do not want this. They all say, "I will work any time," then other plans come up when you want them to work.

You can say you cannot be fired for refusing to work on Sundays? Yes, they can just offer me a transfer and if I did not take it, I would be released and that is what they would do too. Where are my rights?

Another fact to consider is the cost to taxpayers for increased bus and policing. What about the increased use of hydro needed to light, heat and cool the shopping centres? Is it really necessary to waste these valuable resources for those who want Sunday shopping when most of them mean Sunday browsing, and I mean most of them, in the mall? This is what we find.

In 1990, the Kingston Centre was open for six consecutive Sundays during Christmas, which is the prime time. We did not do any better than the year before, and Sunday

was the worst day of the week. There was no comparison. I had to give it up, so I was without my family and missed church. That is another thing here.

Retail workers are already at the lowest end of the pay scale. They do not get paid extra for working Sundays. We are asking the government to give us a common pause day and the right to a two-day holiday every now and then. We only get about three or four of them a year. Is that asking much?

I voted NDP when I heard it was going to do this, but I thought it was not going to be watered down. I thought they were going to close it and that was that. I ask you to please keep your promise.

1540

Mr Daigeler: Quite frankly, I am a little bit confused as to the message I am getting here in Kingston. On the one hand we have individual retailers such as yourself—

Mr Anderson: I am not an owner; I am a worker. There is a difference. There are 40 people downtown who own their businesses and who want to be open; 40 out of how many? It is okay if they do not want to open; they want the right to open. In other words, they do not have to open if they do not want to. Once we open the malls we are open. That is it. We have no choice. They say we do, but we do not because as a national chain, when the mall is open we are open. There is where the conflict is. You are talking to maybe 40 people from downtown this morning. Now you are talking to a worker. I work there. Would you like to open Parliament seven days a week? Not really. You could not do it. It is not right.

Mr Daigeler: Are you talking to these retailers in the downtown district? They were blasting us for not giving them the freedom to stay open.

Mr Anderson: They are open here in Kingston. Did they not tell you that? The township just recently—

Mr Daigeler: Well, just recently.

Mr Anderson: Okay, they are open just recently. But it is the owners, not the workers.

Mr Daigeler: Would you give them the privilege to be open?

Mr Anderson: The problem arises that the shopping centre wants to open and then everything wants to open. They are just like a bunch of kids fighting over it. And 40 would be open downtown. I honestly say okay, fine, then let the 20 or 30 open. Let them open. They will not do anything.

Mr Daigeler: Were you involved in this local debate here?

Mr Anderson: At city council?

Mr Daigeler: Yes.

Mr Anderson: Yes, I was there.

Mr Daigeler: How would you explain then—

Mr Anderson: The city council did not listen, because at the last meeting the majority of people did not want the city opened. The first one, yes, because very few people knew of it or something—I do not know what happened there—but the second one, as soon as it got down to it—

Mr Daigeler: Obviously there still seems to be a very split opinion here in Kingston.

Mr Anderson: Tourism is up this year and the city was not open. It did better this year and was not open Sundays. It was open the rest of it, but it is just like anything: In this city we have so much historical value that we do not need the retail open. There is so much history in this city. This is the founding city of the country. We do not need the retail open. Some people want it, but as I say, the majority are browsers.

Mr Carr: I wish you luck. I guess you have had a lot of experience in presenting your views and for that I thank you.

Mr Anderson: Not really; this is just my second time.

Mr Carr: You might have one more.

Mr Anderson: I hope so. If it were up to me, it would be called the Lord's Day again and it would be done, everything closed, even the bars. The bars are open on Sunday. They are drinking and there is drunk driving.

Mr Carr: I think you have followed the debate and you know significant portions of the province will be open under whatever reason. The best way to handle this then, in your estimation, would be to withdraw this bill and bring in even tougher provincial legislation, but make it provincial so we do not have this checkerboard pattern type of situation?

Mr Anderson: Yes, and back it up. They used to back it up. It will be rough for a little while, but it is like everything else. Everybody forgets. After it has been a while and they are enjoying it, they will thank you for it. You might even get back in. Are you NDP?

Mr Carr: God forbid.

Mr Anderson: Who is NDP?

Mr Poirier: There is Liberal, Tory and NDP out there, so talk to them.

Mr Anderson: Is this being taped, by the way? Where are the cameras?

Mr Fletcher: Let me ask you a couple of questions. Did you find any noseprints on your store windows Monday morning?

Mr Anderson: We do not have windows.

Mr Fletcher: That is good to hear. You say the legislation is watered down. Why do you say it is watered down? What is the big problem with the watered-down part?

Mr Anderson: The big problem with the law is that it allows some people to open and some not. It is just simple. That is all it is. If I had anything, I would not care. I would let them open downtown if they wanted to. But our mall says, "If they are open, we should be open." The S&R over here opened the bottom floor.

Mr Fletcher: What is the S&R?

Mr Anderson: S&R is a department store over here. They opened their bottom floor. They cannot open the top three because they are over 7,500 square feet. Make it 200 or make it that if you employ more than eight people you cannot open, not have eight people in on Sunday; if you employ more than that, you cannot open.

Mr Fletcher: That is what the legislation says.

Mr Anderson: If you employ more?

Mr Fletcher: Yes.

Mr Anderson: I am quite sure the S&R has more than eight people in its employ. There is something wrong here. Any police here from the city?

Mr Fletcher: No, it is not in place yet. This is draft legislation.

Mr Anderson: Well, that is good.

Mr Fletcher: It is still open to change. It also has 7,500 square feet, the number of employees that are allowed to be—

Mr Anderson: Get it down to 200 square feet and it would probably be a lot better. Then they say they are opening here because of tourism, and who is open? Everybody is open. Well, not everybody; I think there are about 40 of them, but they are not all tourism-related industries. Do not tell me that.

Mr Fletcher: As far as the tourism-related industries are concerned, do you have a problem with tourism-related industries being open?

Mr Anderson: No. That is postcards and stuff that you get in the drugstores, like souvenirs.

Mr Fletcher: Also perhaps boat rentals.

Mr Anderson: No.

The Vice-Chair: Thank you very much for your presentation. We will take your views into account.

ZELLERS, CATARAQUI TOWN CENTRE

The Vice-Chair: Mr Paul Kehoe, thank you for coming. You have 15 minutes. You can divide that up as you wish, but I am sure all the fine gentlemen up here would probably like to ask you at least one question each. You can begin now.

Mr Kehoe: My name is Paul Kehoe and I am the associate manager of the Zellers store at the Cataraqui Town Centre, located in Kingston township. Like many area retailers, Zellers supports Sunday retail opening based on our experience of last year. Ultimately we would like to see all stores given the right to open if they choose. However, today I will confine my comments to Bill 115.

There are three aspects of the proposed Bill 115 I will comment on today: first, the lack of any appeal mechanism; second, the discrimination against stores larger than 7,500 square feet; and third, the right of workers to refuse previously agreed-to Sunday hours on 48 hours' notice without cause.

The proposed revised subsection 4(7) states, "The council is not required to pass the bylaw even if the tourism criteria are met," and subsection 4(8) states, "The council's decision is final." These two subsections have the potential to create exactly the kinds of inequities the government sought to avoid when developing this legislation. The only recourse available will be through expensive, time-consuming legal challenges.

Some background on the current status of Sunday shopping in Kingston will explain our concern about the failure of Bill 115 to include an appeal mechanism. The committee may have heard from previous speakers today that Kingston city council recently passed a bylaw modelled on

the proposed legislation. As a result, local retailers are in the position of being able to comment from experience on the potential impact of Bill 115 as it currently is written.

In Frontenac county, under the present Retail Business Holidays Act, our individual local municipalities have the authority to pass bylaws with respect to Sunday openings. The Kingston bylaw applies only to the Kingston downtown business improvement area, a small area close to the waterfront. At public hearings, retailer after retailer supported Sunday openings, not just for one small area but for all of greater Kingston, including Cataraqui Town Centre.

Tourism is big business in Kingston: \$171 million in direct spending in 1990, according to the Kingston Area Economic Development Commission, and \$22.5 million of that was retail spending on gifts and clothing.

When you drop into a tourism information centre, the material you receive promotes greater Kingston and the Thousand Islands. This year, Kingston joined with Cornwall, Ottawa and Brockville to promote eastern Ontario as a tourism destination. We have shaken our image as a small and historic university town where tourists might want to spend an afternoon and are becoming an exciting destination offering a wide variety of activities for tourists of all interests.

1550

When it came to Sunday retailing, tourism was suddenly only applicable to a few small blocks. Stores outside that magic zone have no possibility to compete for a share of that \$22.5 million that will be spent on Sunday, which is one of the busiest tourist days of the week.

When all stores were open on Sunday for nine months last year, our store's share of Sunday sales ranged between \$100,000 in the summer and \$400,000 immediately prior to Christmas. That consumer demand, from both tourists and local residents, has not disappeared, but will now be met by a small number of privileged retailers.

Zellers and other retailers in Kingston township approached our council members for a Sunday opening bylaw to enable us to compete. However, Kingston township refused to consider our request and there is no appeal route available to us. We are forced to stand by and watch as millions of dollars in tourist and local retail spending is directed to some retailers and away from us.

Stores larger than 7,500 square feet: Section 2 of the tourism criteria introduced with the proposed legislation establishes tougher criteria for stores larger than 7,500 square feet or normally employing more than eight employees. These larger stores must also apply for exemptions individually. We believe this provision serves no purpose other than to discriminate against a relatively small number of retailers and their retail employees who may wish to work on Sunday. We request that this section 2 of the criteria be dropped.

Through the tourism criteria, the government has acknowledged that the support and development of tourism is a more pressing concern than the provision of a common pause day for some retail workers. The vast majority of stores are smaller than 7,500 square feet and therefore, in any given community that chooses to enact a bylaw, the

majority of retail stores could open and the majority of retail workers could be employed for Sunday hours.

Section 2 therefore penalizes a relatively small number of larger retailers to no purpose. It also penalizes their employees who may wish to work on Sunday, as well as their customers who may wish to shop.

Large retailers have larger worker pools and are better able to accommodate individual preferences for Sunday assignments. At Zellers, Sunday hours were voluntary during the nine months when stores were open and we encountered no difficulty finding employees who were willing to work. Neither is size related to the store's ability to attract and serve tourists or local residents who wish to shop on Sunday.

Zellers supports tourism in Kingston, but the committee should understand that local residents also shop on Sunday in the stores that are open for tourist reasons, so the impact of this bill will be felt by all stores.

Right to refuse Sunday hours: Zellers supports subsection 39eb(1) and the right of an employee to refuse an assignment of work on a Sunday or other holiday. However, we find that proposed subsection 39eb(2) will make employee scheduling very difficult for retailers of all sizes.

Retailing is a service business, and one of the basics by which our customers measure us is whether we have enough personnel on the floor to assist with their purchases. Our policy of voluntary Sunday work has been successful in the past and we made every effort, as we do from Monday to Saturday, to accommodate workers who had family or other sound reasons for having to cancel previously scheduled Sunday hours. However, we believe that subsection 39eb(2) could potentially encourage irresponsible employee attitudes where difficulties already exist.

Perhaps an example closer to the committee members' own experiences might make the point. Members of the Legislature are also in the service business, the business of providing service to your constituents. Imagine that you have organized a constituency open house day on Sunday to open your new office location. On Friday morning at 11:30 am, just as you are about to leave Queen's Park to drive back to your riding, your constituency assistant calls to say that he has decided not to come in on Sunday. No explanation—he just decided to do something else.

Do you not think you would be justified in questioning his commitment to his job? Do you not think you should be able to include that attitude when determining whether to schedule that person for future Sunday hours or promote that person?

Like you, we value our staff, but also like you, our ability to provide our customers with a service they expect and deserve depends directly on our being able to schedule reliable employees.

Conclusions and recommendations: Department stores are also suffering tremendously from the recession, cross-border shopping and increasing competition as major US retailers move into Canada. Department stores' share of total retail sales has been in decline for 15 years. Recent sales figures for department stores released by Statistics Canada demonstrate the difficulty department stores are facing; they are down 7.8% over June of last year.

Instead of penalizing us as large employers, we are asking that you give us the competitive tool we need to survive so that you do not have to bail us out when we are forced to shut down.

In this community, Zellers is a major employer, taxpayer and participant in community life, and we want to stay in business in this community. We are not asking for special consideration or different rules for our stores. We are only asking the committee to amend Bill 115 so that we have the same opportunity as other Kingston area retailers have to serve our customers.

Mr Sorbara: I want to thank Mr Kehoe. I am sorry I was not here for the opening part of his presentation. I want to tell you first of all that the points you made particularly on the issue of the 7,500-square-foot store are right on the money. In fact, it is unthinkable that the mall you are in might be allowed to be open under a broad exemption, and yet an individual application would have to be made by Zellers which could be turned down at the discretion of the council. That would put you at a terrible competitive disadvantage.

But the point I wanted to make and get your thoughts on is the right to refuse Sunday hours under the provisions of Bill 115. Most people, to tell you the truth, want to be absolutely politically correct, in the current understanding of that term, and really have a little bit too much fear to set down on paper the realities of this worker protection section.

During my time as Minister of Labour, the notion of an absolute right to refuse on 48 hours' notice was described by officials within the ministry as absolutely unworkable, that you could never come to an agreement with your employees, because no matter what agreement you came to, they would have an absolute right to violate that agreement. No contract, whether one of employment or one for delivery of services, can be based on the unilateral right of one party to simply abrogate the agreement. So I am glad you have put that in.

By the way, in a market of high unemployment, most retailers have found that they have a vibrant workforce willing to work on Sunday and no shortage of applications.

Mr Kehoe: We never had a problem getting people to work. We hired approximately 12 people when we were open on Sunday for that nine-month period. We hired about 15 people, and it could be working every Sunday, every second Sunday, every third Sunday, and then the rest was picked up by other people within the store working already.

Mr Sorbara: Did you have to coerce people into working on Sunday?

Mr Kehoe: No. There was no way we said, "Look, you've got to work Sunday or else."

Mr Sorbara: How did you go about managing to identify those people who would make up your Sunday workforce?

Mr Kehoe: Volunteers. It was a lot of students, maybe wives working. Maybe their husbands were working. She was not needed exactly at home that day. It was a 12 to 5 shift. Why not make an extra \$35 or \$50?

Mr Sorbara: I do not have any more questions, but I just say once again that it is courageous to put in a presen-

tation the view that part of the law is really unworkable and unpracticable. All of us would like to have an absolute right to refuse just about anything that comes about in our life if we so choose, but in a relationship of employment, agreements have to be made, whether they are collective agreements or individual agreements, and then it is the responsibility of both parties, I think, to honour those agreements.

Mr Jordan: Thank you, Mr Kehoe, for your detailed presentation relative to a large retail outlet as compared to the areas you have referred to in the city that have been approved for Sunday shopping. I was wondering, if you had the same rights as they have, do you feel you would be taking the business from them to your location, from these small shops here? These people travel in by boat, I understand, and most of them are pedestrians strolling the area.

Mr Kehoe: I would say that part of it, coming by boat, is a percentage, but a lot of people are here as tourists by car, by whatever means. There would be no problem, I am sure, of getting to our mall. We have never had a problem, as far as I know. The only thing I know of is Sunday bus routes. That is the only problem I know of basically, but otherwise there is no problem getting to us.

Mr Jordan: It was sort of the impression I got from the mayor this morning that this area was more catering just to local tourist traffic here, rather than overall tourists.

Mr Kehoe: I do not know how many people, if you want to go to the far end of where it stops for people shopping, are going to walk that far on a Sunday. Do they walk two blocks, five blocks, 10 blocks? I do not know where you cut that off.

Mr Jordan: So you are saying that like some of the smaller towns in my riding where they have declared the whole community—

Mr Kehoe: Yes.

Mr Jordan: The town of Perth is considered a tourist area, so those that wish to open may do so.

You said department stores are suffering tremendously from cross-border shopping and increasing competition as major US retailers move into Canada. I thought they were going the other way.

Mr Kehoe: No. I would have to double check the exact retailers, but I know two or three retailers who are looking at it being very viable coming into Canada.

Mr Klopp: Just a point of clarification: You have on page 2 that there is \$171 million of money spent in the tourist area for the whole of 1990, in the Kingston area. That is all of 1990, for the whole year. Then it says \$22.5 million was spent on gifts and clothing, of the \$171 million. Then you get to page 3 and it says that this magic zone is \$22.5 million that is spent only on Sunday. That is not correct. It is not \$22.5 million spent only on Sunday.

Mr Kehoe: No.

Mr Klopp: My thought is that if you would get that point cleared up, maybe you would not be so concerned about this. It is not the big numbers you are talking about. In fact, according to the people we had earlier this morning, 9,300 people stopped in on Sunday only at the information

booth, and they used the number that 24 cents of their dollar was spent on clothing, so it is more like \$220,000 per Sunday that you may be missing, not \$22.5 million per Sunday. Maybe that would not be such a big deal for you then.

Mr Kehoe: It would be a share of that dollar value.

Mr Klopp: Yes. There is only so much money to go around. In fact, later on you said there was \$100,000 you were collecting. My sense is, and this bill was only for the labour, that maybe it has a spinoff that small businesses have a chance to compete against people like you, and you are against that. You are on record for that? Is that the gist of your—

Mr Kehoe: Sorry; I did not quite understand.

Mr Klopp: Your Zellers store is on record that you are against the idea that small business should have a day like this? You are against that idea?

Mr Kehoe: The point we are trying to make in this presentation is that if a small guy can open, let everybody open.

Mr Klopp: So you are against the idea that they have a day when they can compete against you?

Mr Kehoe: Sure.

Mr Sorbara: If they are closed, you cannot compete.

Mr Klopp: That is what I mean. You want to be open to beat them up some more?

Mr Kehoe: Yes. We are not trying to beat up anybody.

The Vice-Chair: Thank you very much, sir, for that fine presentation. We will take into account what you are saying.

Is Don Bristol here, please? Seeing that Don Bristol is not here, I would ask that we take a 10-minute recess. Can I please ask staff and members to stay in the room.

The committee recessed at 1605.

1618

The Chair: Next we have Mr Don Bristol.

Mr Sorbara: Mr Chairman, as Mr Bristol is coming up to the microphone, could you just set out the agenda for the balance of the afternoon for us?

Clerk of the Committee: The agenda for the balance of the afternoon is Mr Bristol, then a cancellation at 4:15, then Dave Meers at 4:30. That is it for the day.

DON BRISTOL

The Chair: Mr Bristol, we have about a quarter of an hour for your presentation. Basically if you could divide that time between your presentation and some time left over for questions from the committee, I am sure members here will have many questions for you. Please feel free to start when you are comfortable, sir.

Mr Bristol: First of all, I would like to thank the committee for giving me the opportunity to make a few brief remarks on what I feel is the issue, which is not Sunday shopping; it is working on Sunday. I am speaking with 26 years of experience in the retail business, not as a general but as a private, not as an owner or a manager but as a salesperson in the retail business.

Mr Poirier: And you are so young.

Mr Bristol: Thank you very much. Probably some of my remarks will be repetitious, but not having the benefit of having attended the other hearings, please bear with me.

There are added costs to the potential vetted cost to the retailers and the consumers. First of all you have additional overhead. You have lighting, heating and possibly extra staff, which all adds to the cost of doing business. That has to be passed on to the consumer.

I am sure you have heard it before: You are taking six days' business and shoving it over seven. There is only so much water in the well. Everyone only has so much disposable income. Believe me, as I have seen when they tested it last fall with the Sunday shopping, you may do a little business on Sunday, but instead of having the quiet days traditionally on Monday and Tuesday, now you have Wednesday, Thursday and possibly Friday.

Other added costs: You have a lot of people in the retail sector. Most of them are women and a lot of them happen to be single parents. So naturally, what do you do with the children when Mom is working on Sunday? We will be expected to provide day care, which you and I will have to pay as an added cost.

Public transportation: There will be greater demand for public transportation, and of course there is not a paying public transportation system that I know of in North America, so guess who pays for it again? The taxpayers.

You are going to have added policing costs because you have the potential now for more armed robberies and shoplifting and for more vehicular traffic in commercial areas. Those are all added costs. Who pays the bill? The taxpayer.

Some of the arguments for Sunday shopping foresaw that it would help stimulate business in the downtown cores of our communities. If I may use an example, in Watertown, Syracuse, Messina or Gouverneur—any one of those communities across the border in New York State that have had the luxury of Sunday shopping for many years—you will find the complete opposite, so it just does not hold water to say that having that seventh day of shopping will stimulate business in the downtown core.

This claim that it will create more jobs: In fact, it is quite the opposite. In my experience in the retail business, you have less coverage during the week to provide product knowledge and service to the consumer. That is another cost, if you wish, to the consumers.

There have been remarks that it will help to prevent cross-border shopping. I do not want to go into that, but I would like to refer to a meeting of the eastern Ontario mayors, wardens and reeves, a conference held in Cornwall on June 20. This is from the minutes of that meeting. There were 14 mayors in the task force at this time and it was unanimous that cross-border shopping had nothing to do with Sunday shopping.

Mayor Stephen Clark, who is from Brockville, mentioned that everything comes down to taxes in municipalities. The price of gas, cigarettes and alcohol has to stop going up. Mayor George Zegouras, who is from Belleville, said that everybody is affected. Mayor Stephen Clark would like Mr Pilkey to meet with groups from different sections of Ontario as soon as possible. This was June 20 and held in Cornwall.

Why a common pause day? I heard some of the interview on CJOH last night with two members of this committee. For lack of a better word, we use the words "common pause day" because most of the people in the retail sector do not have the luxury of a Monday to Friday, 9 to 5 position, and they would like to spend a little time with their family. What is wrong with that?

There was a remark made that those in the manufacturing industry work on Sundays. Well, this was a condition of employment when they started there, and I can assure you they are not making minimum wage, \$5.40 or \$6.00 an hour. They are making twice and maybe three times that amount.

What is wrong with the retail worker having that day off with his family? You say you can have Monday or Tuesday off. That is fine, but the children are in school.

Those are pretty well all the remarks I have to make. I would welcome any comments.

Mr Daigeler: Thank you very much for coming before us. You are not affiliated with any particular group. How did you hear about this session?

Mr Bristol: It was advertised in the local press. I was involved in the discussions when they came before the city. I am a city alderman, but I am here as an individual. I am concerned about the retail worker, having worked there, as I say, for 26 years. I know what having Sunday shopping can do to families. We went through that experiment last fall. It is not pleasant.

Mr Daigeler: You are a city alderman. I indicated earlier to previous presenters that I am really left with an ambiguous feeling from this day here in Kingston. The presenters seem to be about half and half, and all very articulate and forceful arguments on both sides, quite frankly. In other communities there seemed to be more of a consensus either way. Back in Ottawa, I would say the majority was against Sunday shopping, or not against but at least willing to let us decide. Here it is even. In the north everybody seemed to argue that we should stay open for all kinds of reasons, whereas here it really seems to be very split, half and half. Would that be your reading of the public's view?

Mr Bristol: To be honest with you, I feel the majority is opposed to having people working on Sunday in the retail sector. We held public meetings here in the city. In the last one, which was to deal with the consideration of opening the downtown area for Sunday shopping, it was two to one opposed to opening up and freeing up the Retail Business Holidays Act.

Mr Daigeler: It still carried, though.

Mr Bristol: It carried. I do not want to get into the politics of it, but the strings are being pulled very high by a very small, influential group in our community. Needless to say, being an election year, I am sure it comes in handy to have extra support.

Mr Daigeler: You think this is going to be a major issue in the municipal election?

Mr Bristol: I cannot read that. I think there are many more important issues, although I do not say this is not important, having that common pause day. As you know,

we have a lot of environmental problems, and the eroding tax base in our community. I would be very surprised. It could become an issue, but I am not aware of it at this point.

1630

Mr Carr: Do you like the idea of your council making the decision, or would you rather see it left with the province? A lot of areas, particularly municipal politicians, like it. They like to have the final choice.

Mr Bristol: I have to be honest with you. It was a very big disappointment when the now-Premier, then the leader of the New Democrats, the day before the election in Windsor promised thousands of people, "You can trust me; I will protect your common pause day." We find the exact opposite. When Mayor John Gerretsen spoke to the cabinet about three years ago in Perth, he encouraged the Premier of the day to take a stand for this common pause day, and they did the opposite. Now we feel the present government is doing the same thing. They are passing the buck because it happens to be a controversial issue. Stand up for the workers in the province. This is a golden opportunity. Let us not let it slide through our fingers.

Mr Carr: One of the things that bothers me more than anything else is the great division within the community. It would seem tough decisions have to be made. If they could be made at the provincial level, it avoids the fighting—one uses the word "friends", pitting them one against the other before council, where it is going to be a tough enough decision because you are going to have half and half, or whatever it is, either way. A great majority of the population is going to be upset. What makes it even worse is if you can somehow blame Toronto and Queen's Park. It sometimes is a little bit easier.

My big concern when I see debates going on is that this will come out before council. People are going to say that because of your stand as an alderman, they are not going to vote for you, even though they may like you for nine out of 10 other things. It is going to be very divisive in some communities. It was interesting to see that a lot of communities wanted that. Even the question of who is going to decide is very difficult.

With regard to the tourist exemption, and as it relates to this bill, what is your feeling with that? As you know, this council could elect to be open because it is so broad that you could include almost any area. Do you like keeping it that broad or would you like to see it narrowed down?

Mr Bristol: I would like to see it narrowed down. Reading through the act, and I am not an expert, but looking at it, you are right, there are an awful lot of loopholes, and just about anyone could open in this community.

I understand there is going to be a 7,500-square-foot maximum and a maximum of eight employees. We have an example here in this community. We have a retail store that has three floors. So what they do is close down the second and third floors and they can open the first floor on Sunday. That is a major loophole. I would like to see it that if they have the 7,500 square feet, that 7,500 square feet is the same on Monday as on Sunday as on Wednesday as on Thursday. Let us not be able to cordon off a part of the store so as to make it legal. Let us mean what we say.

The major grocery stores, for instance, would probably be able to juggle around somehow so they can open up. For the little family stores, and there are still quite a few in our community, that is their main day of doing business. They are providing an extra service so that if mom runs out of milk, we can get it. I am not objecting to that, and I think you will find that a lot of the people who work for the giant grocers do not object to that.

I would like to see that loophole closed so that your square footage is based on your seven days of selling so that it is not going to be that you can squeeze it down for Sunday shopping to make it legal.

Mr Carr: Good luck to you. You are going to need it.

The Chair: Mr Mills with a point of clarification, as the parliamentary assistant.

Mr Mills: Roping off is prohibited now, and I am sure you are aware of that.

Mr Bristol: Would they qualify, then, for closing off their second and third floors and just have the first floor open? You see, this is what I am afraid of. This is what is happening.

Mr Mills: All I am saying is that roping off is prohibited. That is all.

Mr Bristol: I would appreciate it if the committee could look into this to see that it is the same square footage Monday to Sunday.

Mr Kormos: Look, you are well aware that the history of this issue is a somewhat bizarre one. My God, Dianne Cunningham, from the Conservative party, was elected in the by-election in London, campaigning so strongly against Sunday shopping and making it quite clear that she—she was a leadership candidate—as a Conservative, was an advocate of a common pause day. By God, there were some of us who actually thought, for a few brief moments, that the Conservative party advocated a common pause day, that they maintained their support for family and the church and for communities. That seems to have disappeared.

Mr Jordan: That is not correct.

Mr Kormos: Wait a minute. They will have their time. It seems to have disappeared, and it is particularly difficult when they will not put the cards out on the table. I hear questions, Mr Bristol, from the Conservative participants in this committee, to people like yourself, about what would be better, provincial regulation or municipal regulation. If they are suggesting that provincial regulation is superior to what is in the bill, I think I am in agreement with them. More and more people like you have been saying that is a better way of doing it.

Mr Bristol: But Mrs Cunningham was a member of the caucus. We had a promise from the Premier of this province. It is different.

Mr Kormos: I tell you that there are a whole lot of members of that Legislature, like myself, who were elected on the basis of the commitments we made to our constituents, the belief in a common pause day, and the belief that it had to be a common pause day for the greatest number of people possible.

Once again, we inherited legislation that the last government created with this whole concept of local option. We opposed local option. We criticized it. I am so pleased that what is before us is but draft legislation. One of the consistent comments that has been made over the last few days I have been with this committee is this concern about municipal control over who opens and who does not open, as compared to a body which might be more independent and more removed from the guts of the community, and more ready to make, perhaps, an objective decision based on standards that are universal across the province.

Our difficulty is in really determining, although I have heard some very clear and candid comments from people like yourself over the course of the last few days, who have had real concern about what is going to happen in our province. One of my concerns is the fact that—

The Chair: Do you have a question?

Mr Kormos: Oh, just watch me turn this into a question, Mr Chair. My concern is that we cannot get the straight goods on exactly where it is that the Liberals are coming from and where it is that the Tories are coming from, in terms of really what do they propose. I am fearful that they may not really be advocating common pause days at all. If they do not, they should say so.

All I can tell you is that what you said has been in common with what so many other people have said. They are points, in my view, well made, points with which I, as but one member, a mere backbencher, am in very strong accord, particularly because it was promises that we made, and I think we have an obligation to keep those promises, to our constituents, both as a government and each one of us as members of the Legislature. We said certain things at our committee upon which we received support. Do you think it is correct in that regard?

Mr Bristol: I will tell you, there is a big disappointment. We tried to get your colleague, who is sympathetic to a common pause day, who refused to attend the public meetings. None of his staff would represent him. He is a member of the government, your colleague the member for Kingston and The Islands. He had the opportunity to send representation, if he could not be there, to stand up for workers in this province and in this riding, and he refused to do that. It bothers me.

There was a big commitment. I can tell you that the retail sector may be a small parcel of it, but I think it is part of the parcel why the New Democrats were elected to the province. It was to guarantee, to protect the workers on Sunday in the retail business. We feel now that the exact opposite could happen.

Mr Kormos: But you are saying that is a promise that was made that you expect to see kept.

Mr Bristol: Yes.

Mr Jordan: I just want to raise that point with Mr Kormos that the Conservative party was never on record as being against family or church, as he just stated.

Mr Kormos: Just Sunday shopping. You are just in support of Sunday shopping.

Mr Jordan: The issue here is Sunday shopping. It is self-discipline. What you do with your time on Sundays is up to each individual.

Mr Kormos: So Mrs Cunningham no longer speaks for the party, is that it?

Was she wrong when she advocated that?

Mr Jordan: Mr Kormos, she never spoke against the church or family. I would ask you to remove that remark.

The Chair: We would like to hear from Mrs Maudsley, I believe. Our last witness is not here.

Mr Daigeler: Kormos wakes up.

1640

MARY K. MAUDSLEY

The Chair: Thank you, Mrs Maudsley. You are very tolerant to have attended to the whole afternoon and see—

Mrs Maudsley: The politicizing of the whole issue, the partisanization of the whole issue.

My name is Mary K. Maudsley. I came here today because I saw an ad in the paper. I guess it was an advertisement regarding this meeting. I did not have time to have anything formally prepared.

I have come, though, as a member of a very large and very influential group, otherwise known as the consumers in this community. There does not seem to have been anybody so far today who has spoken from the consumer's point of view. I do not own a business. I am not right now employed, so I am not a member of the union. I am just a member of this very large group called the consumers.

I feel I have to say as part of my qualification today that I am also a Christian, although I am of the lifelong variety and not of a more recent conversion to some of those things. I have a successful family. I think you will call it that under most circumstances. We are still hanging in there together and the children are successful.

I would just like to make several comments and maybe rhetorical questions that arise from what has been said here today. I also espouse the concept of at least one day of rest in the week, although as a mother raising a family I seldom got one day of rest. My job seemed to be 24 hours a day and seven days a week. I do, however, espouse a pause day for everyone. I do not think that a common pause day is possible, because as soon as you speak of it as you did a couple of minutes ago, sir, you qualify that and you say it is for the greatest number of people or some such thing, or you exempt essential services or something like that. So I do not think a common pause day is at all possible; a pause day, yes.

Perhaps it would be reasonable to say that for the government, one of its possible actions here would be to say that no one—that includes the firemen and the policemen and the nurse and the physician and maybe even the mother—should be required to work both Saturday and Sunday. It would be another way of saying that there should be a pause day from labour.

Another observation I would make is that I always wonder when I come to these meetings and these discussions why people stand up and say that Sunday should be the day for doing things with your family, for worshipping, for contemplation of your life. My question is, why is it

only done on Sunday? Why are these people telling me to do that just on Sunday? Why are not churches open for me to worship every other day of the week? Should I only do things with my family on Sunday because that is maybe what other people are doing on Sunday?

I am saying all of this to illustrate the notion that a common pause day is just simply not possible. Politicians do not get a common pause day, although they could perhaps take one if they wanted to.

I do not think the government—any government; this is not a partisan comment—should put itself in the ludicrous position of telling people that they cannot work any more than the government should tell me that I cannot shop.

It seems to me, in summary, that there are really two decisions although there is a third one as well that cannot be forgotten. I would say to any government, let us, the consumers, make our decision to shop or not to shop on Sunday. I am not telling anybody he has to shop on Sunday, but I do not really think he has the right to tell me that I cannot or that I should not.

Then let merchants decide whether they would open or not. They will have to test it out and see if enough of us will come in to make it worth their while, but no one should tell them they have to open, and I do not think in most cases there is anyone telling them they have to do that.

The government might say, for instance—this idea I put forward a few minutes ago—that none of the people, no one, just leave it that no one should have to work seven days a week. I do not think anyone is promoting that idea, that anyone is going to work seven days a week, except for physicians.

Mr Sorbara: I want to thank you for making your representation, although you did not schedule yourself early on. There has been one major lack, I think, in the evidence that this committee has been hearing, and that is to say that we have heard from an endless variety of interest groups, somebody speaking on behalf of business or the United Food and Commercial Workers International Union, or the Lord's Day Alliance or the Catholic congregation in Ottawa. We have had lots of that and we are going to have a lot more of that, but unfortunately it is virtually impossible to seek out representation from the people in general. We are all of us consumers, men and women and children of the province who on a daily basis or on a weekly basis provide for themselves through the purchases we make.

It should give you some solace to know that at least we are now aware of surveys which support the point of view you are arguing, that in the most recent surveys over 50% of the people of the province, the consumers of the province, would prefer to be able to make their own choices in this regard.

I am fully sympathetic with your notion that contemplation, religion, our own spirituality ought properly to be a part of each day of our life and each of us should have the freedom to organize a day in which we have a special ability to step back from the workforce. In fact, there is one good thing about the bill that is being presented. It has a provision for 36 consecutive hours off for retail workers.

Most of them have that anyway, but the government has determined to put it into the bill.

If, as it turns out, the government were to withdraw this bill and allow the community of Kingston to regulate store hours on Sunday the way it regulates store hours on every other day of the week, do you as a mother, as a consumer, as a resident of the community feel that there would be a diminishment in the quality of life of the community of Kingston?

Mrs Maudsley: No.

Mr Sorbara: Thank you. Neither do I.

Mrs Maudsley: Actually, that was maybe a quick answer. I have never had it explained to me really clearly how that would diminish it. I do not think it necessarily would. I think it is a ridiculous notion that Sunday shopping is to be blamed for family problems or family breakdown, if that is what you are referring to.

Mr Sorbara: Just on that point, would you not agree with me that if the only time a parent is paying any attention to his or her children, or setting aside moments or minutes or hours for children and family life, is Sunday, then that family is probably in very desperate straits? That is to say, parenting and family life are part of every minute of every day.

Mrs Maudsley: Yes.

Mr Jordan: I would like very much to thank you for representing the consumer today. This is really the first time in my short time on this committee that I have heard, if you will, the independent consumer's point of view. Somehow we keep trying to connect whether I spend time with my family or whether I go to church with shopping on Sunday. I do not see any connection whatsoever, because I can do both quite well, and I think people are self-disciplined enough that they are quite capable of managing their time with their families.

Whether there is open shopping or not, these people who are not going to spend time with their families are probably gone fishing on Sunday or someplace else. Sunday shopping to me is not relative to family life. Family life is something that goes on every day, 24 hours a day. As you say, the churches, most of them, have their doors open seven days a week, and anyone can go in and spend a quiet time and have just as much benefit from it on a Monday as if he did it on a Sunday. I thank you very much for your presentation.

1650

Mr Mills: Thank you, Mrs Maudsley, for coming here this afternoon and making your views known. I presume they are your individual views, that you are not part of a consumer group, per se, just as an ordinary—

Mrs Maudsley: I am not part of a formal organization. I am just part of that same very large group.

Mr Mills: I had a little difficulty with the way you were speaking about Sunday being a common pause day. Why is it Sunday? My reaction would be that for any other day, we would have to rewrite society. Are we going to call Tuesday the common pause day? Everything, to me, seems geared to Sunday. Buses are on a skeleton schedule; trains

do not run. Sunday is shutdown day. So if you have any difficulty with that being the case and you ask why it is, I think it is very obvious: because it is part of our heritage and it has been for many years recognized as the day.

We talk about Sunday shopping, but really—I have said it many times—we are here listening and talking about Sunday working. Sunday working is the issue, not shopping.

I would just close off my remarks to give my colleague a couple of minutes. I looked out the window here this afternoon, and I said to myself: "What on earth would anyone want to come to Kingston and shop on Sunday for? It is so beautiful." No, really.

Mr Sorbara: I am glad you make those choices for them.

Mr Mills: No, it is a personal opinion. Why would you shop?

Mr Sorbara: A lot of people are delighted that you make that decision for them.

Mr Mills: I do not interrupt you when you are talking, Gregory.

Mr Sorbara: Yes, you do.

Mr Mills: No, I do not.

Mrs Maudsley: I would like to answer that. The trains do not run any better on Saturday out of Kingston than they do on Sunday, for one thing. I understand about the buses, but that is the sort of thing that can be changed if it is necessary. My main objection, I must say, is the same one that you make. I am not trying to impose my perhaps perceived lack of—I hesitate to say "morality," I do not think it is quite that. But I am not imposing it on anyone. I would sit here and fight against the government saying, "You have to open your store," at least as vehemently as I would fight against the government saying, "You cannot open your store."

The Chair: Mr Klopp, you have a very short amount of time left.

Mr Klopp: You bring interesting comments, although I think most people who were here today, although they talked from one side or the other, are also consumers. There was also a comment made a little earlier by someone who said that if you only got one day a week of good time with your family, you are probably in deep trouble. I guess I am one of those who only has one day a week where I make time, and so does my wife. My children are not perfect and we are not a perfect family. I do not think we ever will be, but I take exception to that. I think if you spend one day with your family, you can make it go.

You have been around here for a while in Canada, I assume.

Mr Carr: Be careful about that.

Mr Klopp: Yes, I better be careful. We have had a common pause day for a long time in this province. Some say, "Well, time goes on and times change and we should do it." I get caught up a little bit when they say it is modern and new, and I think to myself for a short time,

yes, because we can change. But we actually lived in a time when there was an opportunity to have a common day when you did not have to go to work. Although I see some of your points, I think this is a work day, not a day where I want to go shopping because someone else has to work.

I would like to have a rule for our roads that says, "Would you mind driving 80," rather than having a law that says you have to. I once in a while go over that speed limit, and if I get caught, I pay the fine. But I think that is along the same lines as this. It would be nice if we could say, "Would you mind doing it?"

It is a dilemma, I agree, but I think it is somewhat necessary, especially after hearing some of the comments where workers do not get the chance, and they get beat up a little bit by their bosses who force them to work. I wish we lived in a perfect society like you are talking about where we would not have that problem. But our grandfathers also had the same dilemma, I am sure, and I do not think they wanted to say people do not have a common day. You have to protect people from themselves a little bit.

The Chair: Thank you, Mrs Maudsley. Mr Mills has a point of clarification.

Mr Mills: I would just like to advise the committee that in the last presentation, made by Mr Bristol, he posed some question about—I said "roping off" and he asked some questions about some other areas. I am pleased to say that the legal person here has met with Mr Bristol and his queries and questions have been answered, for the record.

The Chair: The bus will leave at 5 o'clock. I would like to thank the city of Kingston for its pleasant hosting of our efforts today, and of course our many presenters, including particularly our last who has waited for so long, Mrs Maudsley.

Mr Sorbara: Just before we adjourn, Mr Chairman, might I just ask the committee now to agree to have a brief in camera session at the beginning of our day tomorrow morning, arising out of testimony we heard today? I will be putting two motions before the committee at that time, and I think it is probably best under the circumstances to have that meeting in camera.

The Chair: In camera at what time, 8:45?

Mr Sorbara: I would prefer if we could do it at 9 o'clock.

Interjection: Why do we not do it now?

Mr Sorbara: I am at the committee's pleasure. We could do it now.

The Chair: Is that the consensus? We are adjourned until 9 o'clock tomorrow morning, except for the in camera session which will occur immediately after the hall has been vacated.

Mr Sorbara: I really would like to take some counsel first, and I will be able to do that overnight. So with the pleasure of the committee, I would prefer to do it in the morning.

The committee continued in camera at 1700.

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**Official Report
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(Hansard)**

Wednesday 14 August 1991

**Journal
des débats
(Hansard)**

Le mercredi 14 août 1991

**Standing committee on
administration of justice**

Retail Business Establishments
Statute Law Amendment Act, 1991

**Comité permanent de
l'administration de la justice**

Loi de 1991 modifiant des lois
en ce qui concerne
les établissements de commerce
de détail

Chair: Drummond White
Clerk: Lisa Freedman

Président : Drummond White
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday 14 August 1991

The committee met at 0900 at the Holiday Inn, Peterborough.

RETAIL BUSINESS ESTABLISHMENTS STATUTE LAW AMENDMENT ACT, 1991

LOI DE 1991 MODIFIANT DES LOIS EN CE QUI CONCERNE LES ÉTABLISSEMENTS DE COMMERCE DE DÉTAIL

Resuming consideration of Bill 115, An Act to amend the Retail Business Holidays Act and the Employment Standards Act in respect of the opening of retail business establishments and employment in them.

Reprise de l'étude du projet de loi 115, Loi modifiant la Loi sur les jours fériés dans le commerce de détail et la Loi sur les normes d'emploi en ce qui concerne l'ouverture des établissements de commerce de détail et l'emploi dans ces établissements.

The Chair: Before we start with our first witness, Mr Mills would like to make a point of clarification.

Mr Mills: Mr Chair, I think it is important to make this point of clarification. Since I got up this morning I have heard three newscasts on the local radio station calling this committee the Liberal Travelling Committee on Sunday Shopping. It names the three Liberal members but makes no mention of anyone else on this committee, that it is an all-party committee, or that it is the standing committee on administration of justice, and I think that should be clarified.

The Chair: Thank you, Mr Mills. To clarify, this is the standing committee on administration of justice from the Legislative Assembly of Ontario.

PETERBOROUGH DOWNTOWN BUSINESS IMPROVEMENT AREA

The Chair: Our first witness is Mrs Dorothy Mead, the co-ordinator of the Peterborough downtown business improvement area. Ms Mead, we have approximately half an hour. Please divide that time between your presentation, leaving some time for the members to pose questions, if you could.

Mrs Mead: Mr Chairman and members of this all-party committee, good morning, and welcome to Peterborough.

Mr Frank Gishman appeared in 1988 at a similar hearing on behalf of downtown Peterborough. He is now on vacation and has entrusted me with appearing before you.

My name is Dorothy Mead, and my job is to co-ordinate the program of the Peterborough downtown business improvement area. The more than 200 BIAs in Ontario are an effective self-help organization of businesses, and each is located in a designated area. We each pay a share of an additional tax, which is collected by the city and returned to us. This provides funding for our many programs to provide some services and perhaps some extra promotion or beautification of the downtown.

I am aware that repetition is to be avoided if possible; I have heard that mentioned at other meetings. However, we are here again.

In 1973 and 1974 a committee headed by the manager of Sears in Peterborough, Ken Ramsden, worked along with others in the province to successfully bring in the 1975 retail holiday store hours act. Since beginning this job in 1982, almost 10 years ago, I found the bill to be clear and effective, and very useful. Even so, the government of the day eventually did throw it out.

In 1986 a hearing was held in Peterborough, at which time the BIA stated that a survey of retail merchants indicated emphatically that they wished to have a common day of rest with their families. In 1988 we took another survey and repeated the procedure.

Mr Sorbara: Excuse me, in 1988—

Mrs Mead: We took another survey, and that will be in the background information of our retailers and their opinions as to opening on Sundays.

In 1991, we appeared before another hearing. We have not, at this point, taken another survey. I am going to stay and listen and try to understand it a little bit better before I send out another survey.

There seem to be several areas of concern with the proposed legislation, I think. The first might be the broad criteria for tourism. Tourism provides a substantial contribution to the economy, and particularly in the Kawarthas area, and I think you will hear today how important it is.

However, forcing independents to open stores seven days a week will probably not improve the economy. It is the independents who really drive our economy; the retailer in particular, buying and selling. That is what makes our world go around, in our business anyway. They have to find time to look after their customers, to do their purchasing and buying—which takes a considerable amount of time—advertising, maintenance, and lately even more paperwork; and I am hearing complaints about that. As the bank manager recently said at one of our meetings, this paperwork is being done at night, from 6 to 10 at night.

As well, time must be found for helping with various activities in the community. The independents realize that whatever is good for the community is good for them, and they do have a broad viewpoint, they do help, not only in downtown, but throughout the whole community. They may sponsor a baseball team, take part in local theatre, and in many charitable organizations in our fine community. There is a great deal of participation in this community, and this would be lost if, as independents, we do not have a little bit of time to do this.

Last but not least—this is really very important to our members—time must be set aside for our families, and this is not to be overlooked. It is really very, very important to us. It is why, sometimes, we go into business, to have a

little control. We may work long hours, we may work 14, 16 hours a day, but we still have some control over that time. I have been in business myself, and I know that is true. You make financial sacrifices; you are not making as much money as you did in Toronto, but it is worth it.

I predict that if this legislation comes into effect, as I see it—and I may be wrong—the number of retail entrepreneurs will noticeably decrease within two years. I know of another country where that has happened.

This appears to be a ploy to transfer market share from the independent to a few larger retailers. It should be noted that many successful larger retailers are on record as being strongly in favour of a common day off. I think that should be remembered. These are successful retailers who are managing at least to make ends meet in six days a week, and their employees are important to them.

Employees are important to a big business. I have worked in big business and I felt I was important then; and my employees when I was in business were important to me. We are not separate, we are working together. If I am good to them, then they are good to me and they help me out.

The second area of concern is the municipal option. The prediction of our mayor in 1988, that it will set community against community, may be right on; and it appears to me when I am making a few phone calls, that this may happen.

A third concern, and I do not quite understand it, is the 7500-square-foot criterion. I am going to listen to that and try and figure out how it works, and whether it is an inequity. Respectfully submitted, Dorothy Mead.

I had thought that Belleville and also the Ontario BIA might be here for a presentation; that is the reason I booked the time. Then I found that Ontario BIA were not ready to make a presentation yet, but will be doing so, probably in Hamilton.

I have not taken up very much of your time, but I have some experience and have worked for the BIA for some time, and I will be glad to try and answer any questions if you have any. I apologize for booking half an hour and not needing it.

The Chair: Mr Sorbara?

Mr Sorbara: Well, ma'am, I just want to tell you there is no need to apologize. Generally—

Mrs Mead: It is the other way around.

Mr Sorbara: Generally we do not have enough time to put all the questions we want to put to witnesses, so the fact that you have made a clear and precise presentation in a few minutes helps us out a little bit. That will give us enough time simply to probe a little bit and come to really understand your views.

First of all, do I take it that the business improvement area for Peterborough would like provincial regulation of shopping on Sunday to bring about as few store openings as possible for a Sunday, is that right?

Mrs Mead: I think that is a fair estimate, and that is borne out in my surveys in your package, yes. That question was asked of them. I believe in 1988 the chamber of commerce also asked that question, and yes, the majority by far would like provincial legislation.

Mr Sorbara: So the possibility of a provincial law that provides a municipal option is something you would not favour, is that right?

Mrs Mead: In 1988 we did not, but I have not done another survey on it since then.

0910

Mr Sorbara: What is your own personal view, though? The reason I ask is because my experience over the course of the past three and a half years, on the question of the extent to which Sunday shopping should or should not be allowed in Ontario, is that there has been a dramatic shift. Let me give you an example of what I mean: In 1988 and 1989, when we were considering the Liberal proposal for an unfettered municipal option—in other words, to put it in the local context, giving the people of Peterborough the ability to decide for themselves the extent to which there would be Sunday shopping—it was not met with great favour, to put it gently, although it did pass. There was a lot of concern that municipalities did not want this new responsibility.

Mrs Mead: I remember that.

Mr Sorbara: And yet last week, when we were in North Bay, the mayor of North Bay said that although North Bay had opposed the municipal option proposal in 1989, they are now very comfortable with having the ability to have an unfettered discretion to make their own rules for their own community. Has there been any change in the Peterborough area that you are aware of?

Mrs Mead: I would not know how the mayor feels about it at present. I think I know how the retailer feels: that shopping six days and six nights is probably sufficient.

I do not whether I am answering your question. You are saying, is there a change? Obviously, if Fenelon Falls and Bobcaygeon open, as they did under the 1975 law, no problem, but already I see the effect of perhaps one or two people deciding they want to open in Kingston; Belleville will feel it has to follow, etc.

Mr Sorbara: I have one final question and then my colleague, Hans Daigeler, apparently has a question.

During the period of about nine months when there was, in effect, no law in Ontario, because the Supreme Court of Ontario struck down Bill 113, the Liberal municipal option bill, and before the Ontario Court of Appeal reversed that decision, storekeepers right around the province were free to open or not open as they chose. What happened in Peterborough and what was the effect on commerce and shopping in Peterborough during that period?

Mrs Mead: I think I can answer that because I store-checked almost every week during that time. I checked the malls as well as downtown. You will see in your package an editorial from the Examiner that probably answers that question better than I can. Not very much happened.

Mr Sorbara: A few stores opened?

Mrs Mead: For a while, yes.

Mr Sorbara: Was there a sense in the Peterborough area that this situation had to be reversed, and it would not be tolerable to simply allow an unregulated market? What was the mood of the people?

Mrs Mead: I have not surveyed the people. This is a retail store owners' problem. Ask that question again.

Mr Sorbara: I am sorry if it is so confusing.

Mrs Mead: I am not confused. I am just—

Mr Sorbara: I want to know, were people opposed to the notion in Peterborough that a storekeeper could open if he or she wanted to during that period? Was there any sort of movement to bring about either a municipal bylaw or a new provincial law to ensure that their freedom to open was curtailed as soon as possible?

Mrs Mead: What happened eventually—getting towards Christmas, there was no movement like that. I called the managers of other larger stores. I think it started with Zellers opening downtown, and when Towers was taken over by Zellers it opened. Therefore, the Woolco manager said, "Well, I must open." The Sears manager—I do not know whether he opened or not, but I believe he did—then K mart, etc, so there was an effect at that time, yes.

I think I am aware of the public because I have done canvassing for various things, and the general public here are not keen on it. They can live without Sunday shopping. It appeared that they could, anyway.

Mr Sorbara: Could they live with Sunday shopping, not the storekeepers, but people in general?

Mrs Mead: Sure. I think even business people would think that is fine. They may have a service business and think: "I'm busy six days a week. I'll go and shop on Sunday." I guess they feel it is not right. We go into business to have some control over our lives, and competition will require that we open. Absolutely.

Mr Daigeler: By the way, I should indicate—perhaps the Chairman might want to repeat this from time to time, because I do not think the witnesses are that familiar with the setup of the committee—this is the Liberal side, that is the Conservative side, and that is the government side over here.

Mrs Mead: Thank you, because the faces have changed in the last while.

Mr Daigeler: That is right.

Mrs Mead: I am lost.

Mr Daigeler: The official opposition gets the chance to ask questions first, then it goes to the Conservative party and then the government party is able to ask some questions.

My question really relates to the message we heard from the Kingston business improvement area, which is very different from what you are conveying to us. I wonder whether you object to the Kingston organization going in a totally different direction. In other words, do you have a problem with them doing what they feel is right for their area and you doing what you feel is right for your own area?

Mrs Mead: I will be telephoning around and finding out what the other business improvement areas are doing. No, that is not a problem. I think each BIA will be making its own presentation.

Mr Daigeler: This, of course, relates back to the municipal option. We as Liberals have taken the position that if a certain area wants to stay open, that is fine. If an area such as yours wants to stay closed, that is fine as well.

That should be decided locally, and as Mr Sorbara said, we really have heard quite often now that this solution seems to have worked quite well.

I come from the Ottawa area. Our own regional council made representation to the committee to say that while they opposed that solution some two years ago, they now favour it. I just want to leave that thought because you answered the question already that perhaps the wisest thing is to leave the thing as it is because it seems to be working. Those areas that want to open can open and those that want to stay closed can stay closed.

Mr Carr: Thank you very much for your presentation this morning. We have been going around the province for the last few weeks and I think it has become very clear there are going to be large sections of this province that are going to be open for Sunday shopping. For example, Windsor, Thunder Bay, Kenora and Collingwood have all said that they are going to pass laws to take the tourist exemption and have their areas open. Some are not; North Bay said it will not; Sudbury, I think, said it would not. But regardless, there are going to be significant portions of this province that are going to have Sunday shopping under this law.

You seem to be saying that the people in Peterborough do not want Sunday shopping, so in light of the fact that this bill is going to give it to large sections of the province, what would you like to see done? Would you like to see the entire bill withdrawn and leave it with the province to say, "No Sunday shopping." Is that what you think might be the best solution?

Mrs Mead: I think people will shop a great deal. They did shop in grocery stores here on Sunday. I think if there are that many opening on Sunday, Peterborough would probably follow, but that would be up to the individual stores.

Mr Carr: One of the things that has come up, and I think you mentioned it a little bit in some of the material there, is that if some other communities open up, it would put pressure on them. They might not want to do it, but when they see their neighbours—

Mrs Mead: We have stores with regional draw here. They draw for maybe 100 miles, so the store owners would certainly have to look at that.

0920

Mr Carr: You are not unlike Collingwood where people come from other parts of Toronto on weekends because of the beautiful lakes and so on. Many people have come from, for example, the greater Toronto area. They were saying one of the reasons they will be open and take the tourist exemption is that people do not necessarily spend more money on a weekly basis. Because they have such an influx, particularly on the summer weekends, of people from other areas, they would like to stay open because those people will go back to Toronto and spend their money, where they would spend it in this region. They see some situations where they are going to be able to get some money pumped into their local region.

I was wondering what your thoughts were, whether you think that is the case, or will people who come up here

not go shopping, even for groceries or something, until they go back to Toronto. What do you think might happen?

Mrs Mead: When the boating is not good, the business improves in Peterborough, yes. Certainly the tourism aspect is important. We also have an all-year-round—we are sort of a small, complete city. We are a tourist area, but also much more than that.

Mr Carr: One of the big concerns is more the family-owned type of businesses. We have heard from a lot of communities that say, whether it is students or whatever, there is a long list of people to work on the weekends. That is for companies large enough to have employees. But the big problem is there are some people who appeared before us who are too small and they do not have employees. It is just the wife, the husband and maybe some of the children, and it puts pressure on them. Maybe the other people could get somebody else to do the work, but they cannot because there is no money. The store is that small. I was wondering what your feeling is in the Peterborough area where a great proportion of the stores are small, family-run situations where there would be a lot of pressure on them to have to work themselves if they were open.

Mrs Mead: I had a store with about eight to ten employees and that is still considered, I think, a small family business. We used to be able to give students enough work during the week and on Friday nights and Saturdays, in those days, almost to put them through school. They do need time to study and time for their families. But you are saying that, yes, the owners would have to work on Sundays. I saw that. I saw the managers who were required to open in the malls and they were working nearly every Sunday themselves, rather than ask employees. These employees are not distant people; they are the people you are working with and you know they have plans for a Sunday and you generally end up working yourself.

You also have to supervise. If you have a business that is specialized and maybe the cost of the goods is into several hundred dollars, if an error is made, you may have lost your profit for the day. So you need some supervision, enough control to know that your customers are being well looked after. If it is a dime store type of operation, that is fine, but even if you have students working for you, somebody must be in control to give the customers service.

Mr Carr: There was a poll done province-wide which I think shows all communities are divided 50-50. The total does not vary too much by region, but I think this region did have a little bit. In other words, across the province it is about split, but in some regions there are maybe five percentage points either way and this is one of the areas where there were more people opposed to Sunday shopping. But it is very close in all regions. Is that your guess?

Mrs Mead: I do not think so. I suspect the stores are not aware of what is happening. That is what I think at this point.

Mr Carr: Of the bill, you mean?

Mrs Mead: Yes. That is why I cannot answer because I do not have the input. They think everything is fine now and they believed the NDP, that Sunday shopping would be under control. They really believe it and I think that is where they think we are at now.

Mr Morrow: Thank you very much for appearing before us today, Mrs Mead. That was a fine presentation. You probably took just the right amount of time so a lot of questions can be asked by all three parties to bring out basically what we need to bring out. We basically have a draft piece of legislation here that we are trying to come out to the public with and fine-tune it. With your help we can fine-tune this.

We have gone around the province and found a lot of small business people, municipal representatives, labour people and church people actually in agreement with a common pause day, so I just thought I would let you know that.

Mrs Mead: I am totally aware of that, thank you.

Mr Morrow: You ask about 7,500 square feet and you wonder about that criterion. Can I just ask you what you would like.

Mrs Mead: I think that is complicated and I am just going to watch. I do not understand how that works at this point. I am sorry.

Mr Morrow: That is fine. You also made a comment about the municipal option. I just wanted to let you know we were removing that and bringing in the tourist exemption which is a whole big part of the amendments.

Mr Lessard: I want to thank you as well for making your presentation here today. Often I do not get a chance to ask all the questions I want, so I appreciate that opportunity.

Mrs Mead: You can tell I am experienced at coming to these hearings.

Mr Lessard: In your brief, you express a fear that small, independent stores might feel pressured to remain open on Sundays. I am trying to determine the reason you feel there is that fear and where that pressure would be coming from.

Mrs Mead: We are competitive and we will protect our market share, so we will either go for the seven days or get out of the retail business.

Mr Lessard: But there must be some pressure from somewhere. Does it come from larger retailers? Does it come from the shopping malls? Does it come from a few businesses within the downtown BIA? Does it come from outside the city, the pressure to open on Sunday?

Mrs Mead: I think I can explain that. A department store would say to me on Monday, "Dorothy, did you check the stores on Sunday?" I would say, "Nothing was open in your category." Fine, so they remain closed. If I had reported back, yes, there were several stores in their price point and category, their head office would have required them to open, I believe.

Mr Lessard: You said your experience in the past was that there were some grocery stores open and you mentioned Zellers and Towers.

Mrs Mead: Towers only after it was bought by Hudson's Bay Co.

Mr Lessard: Do you think small retailers in the downtown BIA would feel pressure to open if a place like Zellers or K mart were open on Sunday?

Mrs Mead: They did not at the time.

Mr Lessard: But they may feel that pressure over time, do you think?

Mrs Mead: They were watching carefully, yes.

Mr Lessard: Would you agree that tourism is important to the economy of Peterborough and should be encouraged?

Mrs Mead: I have a viewpoint that is not very popular but I think I am a little bit knowledgeable, having been personally looking after customers for 25 years in an A-one location in Peterborough, so I knew where my customers were coming from. Most of the money put into the economy by tourism in this area, in my opinion, goes to the operators and that money comes back to us in September, October and November. This is a view I do not think a lot of people share, but I know from experience, I could tell that if we had a good summer, business would be good in Peterborough in the fall in downtown. So yes, the general economy influx is like education, hospitals, everything else, vital and very important to the economy, and anything that can be done to resolve the major problems in that area will certainly help us.

Mr Lessard: You understand that one of the aspects of the proposed bill is to permit retailers serving the tourist market to have the option to be able to open on Sunday?

Mrs Mead: I did present to you 101 things you can do in Peterborough on a Sunday.

Mr Lessard: Other than shopping.

Mrs Mead: I can make that 201, if you want to mention during the week. There is Arbor Theatre, there is the Festival of Lights and all kinds of things, tourism-oriented, to spend your money on. But I think a business owner should not be required to provide entertainment. That is not our job; it is buying and selling. It is really a serious business. We are providing something for our customers and a service.

The Chair: Thank you, Mr Lessard. Thank you very much, Mrs Mead, for a very interesting presentation.

Mrs Mead: I want to emphasize at this point that I was speaking mostly for myself and I will go back and try to get something else from our membership and get back. Thank you.

0930

ONTARIO HOTEL AND MOTEL ASSOCIATION

The Chair: Our next presentation is from the Ontario Hotel and Motel Association, Mr Jim Ryder, who is vice-president of the member services. Mr Ryder, we have about half an hour. Please divide that time between your presentation and allowing some time for questions from the committee members.

Mr Ryder: I would like to thank you initially for giving me this opportunity to present to you what is our position on Sunday and holiday retail shopping.

The Ontario Hotel and Motel Association represents over 1,200 owners and operators of restaurants, taverns, hotels, motels, resorts and lodges throughout the province of Ontario. This membership represents 5,100 bedrooms and over 150,000 licensed dining and tavern seats. We employ

over 45,000 people. These are full-time positions. This number does increase during holiday seasons such as the summer and Christmas holidays, etc. Personally I have been involved in a small family tavern in the city of Peterborough for over 15 years. I feel I speak with some experience.

The OHMA respectfully requests that this committee recommend to the Legislature that Ontario encourage tourism visitors by having unrestricted retail shopping on Sundays and holidays in all areas of the province, as dictated by the market. We also request that there are no limitations on this whatsoever. This unrestricted shopping is vital to our economy and the tourist industry. Our economy is market-driven. Consumers will decide. They should have the freedom of choice to decide where to shop and when to do so. If they choose Sundays, that is their choice, not ours. Any restrictions on retail shopping are a form of economic blackmail, especially in a free market economy.

Ontario people deserve the right to work on a Sunday. A number of our students are part-time employees. This is a time that they can work. They should be allowed that right.

Retail shopping is very important for the tourist. They desire it, they want it. Most retail shopping, dining out, recreation activities take place on a Sunday. That is why a lot of people go across the border to shop on a Sunday. Tourism in 1990 generated direct expenditures of \$15.5 billion, with an estimated total income—this includes such things as bedrooms, etc—of \$22.5 billion. It is one of the greatest generators of income for various levels of government. For example, in 1989 the province of Ontario taxes, etc, on tourism were \$1.85 billion, the federal government \$2.5 billion and \$300 million to various municipal governments. It is a very important aspect of revenue generation.

Closing of retail businesses on Sundays has meant a loss of jobs and the jobs are to the people who need them immensely: students—this is the way they get their income to go to school—our visible minorities, our indigenous people. These are the people who are employed in the tourism industry. These are the people who need the jobs.

One of the largest opponents of unrestricted retail shopping is our labour unions. They are saying it is unfair. It is unfair that people work at stadiums on Sundays, but they do. I do agree with them that it is completely unfair to take a person who is hired on a job today and is working Monday to Saturday and say, "You have to work Sundays now," but if somebody else comes along, given unrestricted shopping, I do not think it is unfair to them to say, "Part of working this job is that you may or you will have to work Sundays." I do not see any unfairness to this. Nurses know that when they go into the job. People who work in large factories such as Stelco know that when they go into the job. They accept that as part of the job.

Your recommendation to legislate protection for retail workers through the Employment Standards Act amendment is also somewhat unfair. For current employees this amendment is unnecessary, as this would, in my mind anyways, represent a substantial change in the conditions of employment which is not allowed under the current act.

Perhaps my personal situation will illustrate what I am trying to get at. Tourism is vital. The downtown core of Peterborough is terrible on a Sunday because there is no

draw, there is no reason to get them into the downtown core. I do not open on Sundays, although I am currently allowed to. I can operate 365 days a year. Why? There is nobody here. There is no sense in me opening. Nobody will come in. Perhaps if shopping was brought down here I would open. I might add, I would not force current employees to work on a Sunday; I would give them that option, and if they chose not to, that is their choice.

In closing, I really hope you weigh this decision carefully. It is vital for tourism, it is vital for some of our retailers. It is very, very important and it means literally millions upon millions of dollars not only to business people but also to government.

Mr Sorbara: As a tavern owner your hours are regulated by the Liquor Licence Board of Ontario and often—well, you will forgive the board if it is operating in the 1970s, but government works somewhat more slowly than the real world. The 1870s, did my friend from Prescott and Russell say?

Mr Kormos: You were the minister longer than I was, Mr Sorbara.

Mr Sorbara: Do not remind me.

Mr Ryder: This is not about that.

Mr Sorbara: No, it is not. So there is regulation of hours. You can stay open 365 days a day a year. You argue in your brief, I think effectively, that there should be absolutely no restriction on hours of shopping. I just want to remind you that municipalities, the city of Peterborough in this case, have the right to regulate store hours on six days a week, and they exercise that right. They can require, for example, that malls be closed by 10 o'clock, or they could say by 5 o'clock, although they would not dare do that. Do you think that the power that the city of Peterborough has to regulate store hours Monday to Saturday should extend to Sunday? In other words, do you object to the notion that Sunday be treated like each of the other days of commerce that municipalities now regulate?

0940

Mr Ryder: I question whether the municipalities should have the power to regulate hours. As I say, the market will dictate. If it is not worth while opening, people will not open. For example, I am allowed to open at 11 o'clock. I choose not to open until 12 o'clock because it is not worth it for that hour. There are other restaurants and taverns in town that do not open until four o'clock or five o'clock in the afternoon. They are allowed to open at 11 o'clock. They choose not to on their own because the market dictates that they do not.

Mr Poirier: You seem to hold a pretty high-up position as vice-president for members' services for OHMA. What do you know from your experience of the problem between management and staff pertaining to working on Sunday? I am glad that you said you do not expect your current staff to be forced arbitrarily to work on Sundays.

Mr Ryder: No, that is unfair.

Mr Poirier: What have you heard in the business globally? Have you heard any nightmare stories? Is it a common problem? Is it rare? What do you hear?

Mr Ryder: Traditionally the industry has been a seven-days-a-week industry. Someone applying for a job in the hospitality industry realizes that Sundays, holidays, etc, are big business times and they accept the fact, "I am applying for a job in this industry and I will have to work Sundays."

Mr Poirier: How about in Peterborough here when it was wide-open Sunday shopping? Did you hear of some conflicts like that?

Mr Ryder: I did not hear of any personally. In fact, six or seven of the people who come into my place are from Food City which is just up the street. They said: "Well, I've got to work Sunday. Oh, well." One out of six or whatever it works out to be.

Mr Poirier: You are not personally knowledgeable of any conflict that there could have been?

Mr Ryder: No, I did not hear any bad comments.

Mr Daigeler: Your position is obviously very different from the one that we just heard, and I think you were here. I also reread what was given to us describing the situation in Peterborough over the last few years, and certainly in the documentation it seemed quite clear there was a lot of opposition to Sunday shopping. Did you make a presentation at the time the Liberal legislation was being discussed? Did you put your viewpoint forward at that time as well in the same way you did today?

Mr Ryder: No, I did not.

Mr Daigeler: If not you, your organization?

Mr Ryder: The OHMA did make presentations at that time. Unfortunately, I was out of the country.

Mr Daigeler: The Peterborough OHMA did make—

Mr Ryder: No. I am the representative from this area and unfortunately at that time I was out of the country.

Mr Daigeler: My question is whether the hotel and motel operators made strong representation at that time—not perhaps yourself.

Mr Ryder: I quite honestly cannot answer that. Perhaps individually somebody did, but the association did not make representation in Peterborough at that time.

Mr Carr: One of the concerns that has been voiced about this particular legislation is the fact that with it being left up to municipalities, the tourism criteria are so broad that almost any part of the province could fall under it, but politicians being what they are, they can interpret it any way they want. So it is broad enough it could be open, but if those municipal politicians do not want Sunday shopping, they can interpret it and say, "No, that didn't mean our area." Is that the problem you have with the legislation, that we have really taken the responsibility for this and given it over to the municipalities? Do you have a problem with that?

Mr Ryder: That is something of a problem, yes. What is a tourist area? Is Hamilton a tourist area? It is a big factory town, but they have excellent tourist attractions, for example, the botanical gardens, the basilica, the escarpment, all of that area attracts tourists. But if you ask somebody in Hamilton, is this a tourist area? they would say: "No, it's a factory town. It's a lunch-bucket city." I am born and raised in Hamilton, I may add, worked at Stelco.

Kingston: Again, if you asked people they would probably say it is a university town. They have some gorgeous examples of limestone architecture. It is a tourist town, is it not?

The second problem with that is the time limit. Over time, things change. Today it might not be tourist; 10 years from now, it may be.

Mr Carr: One, as a result of that, and two, by having the municipalities decide, what we are going to have is a patchwork. We are going to have some areas open, some not, and it is going to be very confusing for everyone involved. The question is how much is going to be open and how much is going to be closed, and there are going to be certain significant portions of the area. As somebody involved with your association, do you see that as a problem for people coming in, the confusion part of it, not knowing?

Mr Ryder: Very definitely. You could equate it to our Canada Elections Act, where if there is a by-election, bars, restaurants and taverns on one side of the street cannot serve alcohol while on the other side of the street they can. The same thing could happen with this. The municipality of North York decides it is a tourist area, and I am not sure what is next. Let's say Etobicoke says no and the boundary is up the middle of the street, and you are coming up here from New York going, "What? It doesn't make any sense. It's the same street."

Mr Carr: That is great. Thank you very much.

Mr Kormos: I should tell you, I share your bewilderment at the ban on selling liquor on federal election days. There is certainly no evidence that sober voters have been more successful in creating new governments than inebriated ones.

Let's talk about downtown. I tell you, I do not think there is one of us who did not take a walk into at least part of your downtown area last night. We got here a little bit late in the day, but there is barely one of us who was not interested in seeing downtown Peterborough. It is a downtown not dissimilar at all from downtown Welland or downtown Thorold or downtown small-town Ontario in a whole lot of places.

Mr Ryder: That is true.

Mr Kormos: And it is a downtown which has been impacted by the plaza development that occurs on the periphery, it is a downtown that suffered by shifts in consumer style. But it also a downtown that still, the vitality that is there, is very much owed, by and large, to smaller, personally hands-on, family-run types of businesses, without large staffs, in many cases without any staff at all.

Again, a little bit of my background: In my own family, my father worked in a factory, but we also ran a family business where there were no employees, because it was not the type of business where there was enough of a margin there. I worked there, my parents worked there, and brothers and sisters did.

Some downtown merchants say: "Look, we can handle six days a week. Our family can sustain our business six days a week. If we are forced, drawn, lured, coerced"—any sort of language you want to use, but the reality is that if a plaza clothing store is open seven days a week, then

the downtown tailor or haberdasher is going to feel some distinct pressure to open, and the history over that period of unrestricted Ontario tended to illustrate that, at least in part, over that short period of time. I have some people saying that wide-open Sunday shopping may well be the final nail in the coffin for small-town downtowns, because small business, family businesses, the types of businesses that tend to sustain small-town downtowns are going to be the ones that simply cannot carry on seven days a week, cannot provide the service and cannot afford to—

It is not simply a matter of hiring staff. The profit margins simply are not there, especially in difficult times. Often it is the hard times we are in right now that people are using to explain why they would want seven-days-a-week shopping. On the contrary, it is those same hard times and some reduced consumption that make it impossible for small business people to stay open seven days a week.

Again, you are a family-run operation that does operate seven days a week.

0950

Mr Ryder: No, we do not right now. We have chosen not to.

Mr Kormos: Fair enough. Perhaps you would choose to if circumstances were different. It is perhaps a business that can utilize staff or employees, more so than some others that have to provide a particular or peculiar type of service. Can you talk about that a little bit?

Mr Ryder: First of all, in family-run businesses, the seventh day is somewhat of a myth. I am closed on Sundays. That does not mean I do not work a Sunday.

Mr Kormos: Fair enough. I cannot dispute that.

Mr Ryder: The seventh day is a myth. Quite honestly, if Sunday shopping were allowed, I think perhaps a lot of these people would find that profit margins would increase somewhat and this would allow for the hiring of an employee, say, for a Sunday, perhaps a cousin in a family-run organization, who will work for a little bit less than maybe somebody else.

First of all, quite simply, in a place where you have a lease, you are paying rent seven days a week. Every dollar that you get in on that seventh day, apply it directly to the rent.

Mr Kormos: I have no quarrel with that, but the reality is you are paying rent 24 hours a day too, are you not?

Mr Ryder: I am not arguing with that, but you cannot realistically operate 24 hours a day. Again, it is a matter of economic viability. If it is worth while to open on a Sunday, people will open; if it is not, they will close. The people who are choosing are the general public, because they are the ones who are coming into your store, your restaurant, your tavern, your whatever. They will decide.

Perhaps in your example of the local tailor, he could say to the people: "Take the measurements and leave your clothes. You'll pick them up at Joe's Tailors on Wednesday." It works. Most times when you go in to buy a pair of pants, in a lot of stores you do not see who is hemming them. The salesman marks them up and you pick them up

Wednesday. Who hems them? I do not know. Somebody does, obviously.

Mr Kormos: That is the difference between the plaza store and the chain and the family-run business that sells suits.

Mr Ryder: My example right now is the family-run business in this city.

Mr Kormos: I have never bought a pair of pants in Peterborough. Maybe today is the day.

Mr Poirier: How about some cowboy boots?

Mr Kormos: Do you sell boots here in Peterborough?

Mr Ryder: Yes, some nice boots.

Mr Morrow: Thank you very much, fellow former Hamiltonian.

Mr Ryder: Delta high school.

Mr Morrow: I went to Scott Park. I am also a former employee of Stelco, so I do understand what you are saying when you talk about the aspects of Hamilton being a lunch-bucket city.

Mr Ryder: It was not meant as an insult.

Mr Morrow: Oh, no; 10 years ago it was, but with things changing so drastically since the recession of 1981-82, Hamilton has drastically changed.

I said I am also a former person from Hamilton because now I reside in Stoney Creek, which reminds me an awful lot of Peterborough. You know what Stoney Creek is like. There is a store right beside where my office is in Stoney Creek, and I have had a lot of talks with the store owner about Sunday shopping and what effects it had on her when it was wide open. She basically said there was no new money created, it was all money just shifted around the week. She was talking about having to pay her employees on a Sunday.

This is leading into a question I was going to ask you. You said that without Sunday shopping, we would lose jobs. It has been proven by the United Food and Commercial Workers that when we had wide-open Sunday shopping between June and November 1990, A&P stores in Ontario lost 202 full-time jobs. In the same period of time, to December 1990, their hours went down by 3.14%. Would you care to make a comment on that?

Mr Ryder: I cannot say, and I do not think they can either, that this is directly a cause of Sunday shopping. As you well know, during this time our economy was also falling. Because it is a service industry, it creates less jobs. As far as Sunday shopping not creating—there is no extra money around, that is true, but on a Sunday I may decide to go down to a ball game in Toronto rather than let my wife go out shopping. My wife wants to go out shopping, but there is nothing to shop for, so I say: "You don't need the money. I'll go down and watch a ball game."

Mr Morrow: You are giving a really interesting scenario there. We have been hearing for two weeks now how Sunday shopping is going to help the recession, how it is going to create jobs, and I have just given you something that was said during the last wide-open Sunday shopping.

We have lost jobs, and yes, there was a recession. Anyway, I want to thank you for being here today.

Mr Ryder: My question is back to you. Was the reason for the loss in jobs because of Sunday shopping or was it because of the recession?

Mr Morrow: I think if you talk to somebody from the UFCW, you will find that it is directly related to Sunday shopping.

Mr Ryder: I do not think they can say that, quite honestly.

The Chair: We have different views on that. We will leave it at that. Thank you very much, Mr Ryder; a very interesting presentation.

TOURISM ONTARIO INC

The Chair: Our next witness is Mr William Morrison, who is representing Tourism Ontario Inc. As you know, you have approximately half an hour. Please feel free to use that time as you wish. The various party caucuses I am sure will have many questions for you.

Mr W. Morrison: I will try to be as brief as I can. You have, I trust, a copy of my presentation before you. Rather than take up your valuable time, I will skip pages 1 and 2, which outline what the organization Tourism Ontario comprises, and in addition to that the economic impact that tourism has in Ontario. I am sure you have heard this many times in the dissertations that have been in front of you in the last two weeks, so perhaps we can get on to some other subjects.

Thank you for the opportunity to put before you the views of 7,000 tourist businesses which Tourism Ontario represents. Of these, by far the majority are small businesses. As I mentioned before, on pages 1 and 2 of this brief I have listed the significance of the tourism component from the standpoint of job employment, tax revenues and generally tourism's contribution to the overall economic impact to Ontario. I will not read these several points. You have had these put before you before.

We are puzzled as an industry as to what the government wishes to accomplish by the introduction of the restrictive common pause legislation in the form of Bill 115. It is noted that 15 of 10,000, a mere 15/100ths of 1%, of all complaints registered with the employment standards branch of the Ministry of Labour had to do with Sunday work.

Is it the quality of life of those who work during the common pause days that is in question? It is a fact that thousands of Ontarians, both those working for municipal or provincial government as well as business, must work weekends, particularly those we employ in tourism and tourism-related jobs.

Our current standard of living is such that it is common that two breadwinners must supply the income to provide an acceptable standard of living. Our standard of living has increased dramatically over the last three decades. In a great many cases, it is to the advantage of the employee when work is available on the common pause day since the partner, for example, can be home with children.

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From a local perspective, as you can imagine, it is quite a discussion here also in Peterborough. I would like to draw your attention to an article taken from our local newspaper, the Examiner, and in particular the note of Father Geoff Howson. He remains ambivalent on the Sunday shopping/common day of rest issue and is quoted as saying: "I don't make a big issue out of it. If people want to go to church, they will go."

In personal experience, having spent some 20 years in the accommodation business and responding to inquiries from tourists, I and my front desk staff have provided an information service. Foremost of all inquiries is, "What are the attractions in the area?" followed closely by, "Where are the shopping areas?" In the period of time we have been in the accommodation business, several recessions have taken place but none equalling the current experience. We read of major hotels on the verge of going into bankruptcy, and the Skyline was an example of that. Speaking with my colleagues across Ontario, it is not uncommon for them to cite reductions of 20%, in some cases more, in occupancies this current year.

This is a situation that is vastly different from such centres as Watertown, New York, where shopping centres and accommodations are doing a booming business. This cross-border shopping seems to be becoming a mindset of cheaper pricing and tax savings, and oft-times citizens, should they do an exact comparison, would realize they are not saving that much when all expenses are accounted for.

It has been estimated that the average Canadian ends up with \$35 of every \$100 earned, the remainder going to governments. Note it is plural; it is not just the provincial government. It is little wonder that cross-border shopping is of such magnitude. A significant portion of cross-border shopping occurs on weekends, including Sundays. In view of significant lost revenues, when business opportunities on this side of the border are available, which in turn results in employment, we must take advantage of it or someone else will.

It has been our own business experience that some 15 years ago 30% of occupancy in our prime tourist season would originate from the northern tier of the United States. That percentage has shrunk to 1% to 2% currently. It is sort of a rare occurrence when you see one or two American licence plates in our parking lot.

Recently, a new merchandising gambit has come to light whereby a telephone call to a 1-800 number gives the caller the opportunity of telephone ordering, and US merchandise is delivered across the border to their homes. What legalities there are in this I do not know, but I heard that on the TV. In addition to that, another 1-800 number informs the prospective shopper where the best bargains are located across the border. These bargain-seekers do not realize the effects of lost revenues to Ontario and Canada, where tax dollars are needed to support our social programs. I personally wonder if it would be of any benefit for the government to implement a media information program outlining what effect the millions of dollars of lost taxes represent. The municipalities want no part of administering Bill 115; they see the inequities that will develop.

At the last AMO convention, municipal delegates voted against administering this bill.

Although our industry represented by Tourism Ontario is, and remains, on public record as favouring unrestricted Sunday and holiday shopping as a vital and integral part of tourism as well as the unrestricted right of Ontarians to work, earn incomes and profit from the production of sales of goods and services any day of the week, we are pleased that the Ontario government is prepared, in a positive and substantial way, to recognize the value and importance of tourism in this legislation.

We commend the provincial Minister of Tourism and Recreation, the Honourable Peter North, and this staff for convincing provincial cabinet and government caucus that the diversity of factors which encourage tourism and travel to and within the province should be reflected in the proposed criteria for tourist area exemptions and permit substantial retail business activity within these areas on Sundays and holidays. Thank you for your attention.

Mr Poirier: Thank you for your presentation, Mr Morrison. Obviously you are quite involved with the tourism association. I am glad to see that you appreciate this tourist designation. You are from the Otonabee Inn in Peterborough. From your experience, sir, if the unrestricted access to Sunday shopping is proposed and happens to Peterborough the way you and your association support, would you describe to me what kind of impact that would have on those who operate tourism operations like yours, for example? If you had unrestricted shopping, would that add to your potential for business, remain the same or be less? What do you see?

Mr W. Morrison: The shopping component of any holiday is very real. I am sure that, in your own experience, after you have enjoyed the sights to be seen, the attractions, etc, if a rainy day comes you will not be golfing; your wife will probably get you to a shopping mall somewhere. It is a very real and important component.

Mr Kormos had a very valid question as to possible dilution. I believe, and my association believes, that the marketplace will sift out, as it were, those which will be of business viability. During the time there was open shopping here in Peterborough Square, for instance, initially the merchants were all encouraged to stay open. However, it was not too long before you walked through that centre and there were not many local people and not many tourists in there and there were also closed doors. The individuals elected, where there was not a viable business demand, to close their doors.

Mr Poirier: If those non-tourist retail outfits, as opposed to the obviously tourist one like yours, remained open—and maybe with time more would remain open—how do you think it would affect your business? Would you be better off, as well off or worse off?

Mr W. Morrison: Anything that increases the tourism component and experience in any given location as far as attractions, shopping, etc, obviously you have a better area to market.

1010

Mr Poirier: Therefore, what is perceived in this bill as non-touristic and what is perceived to be touristic, maybe they are more interrelated economically than people at first may perceive. Would you agree with that?

Mr W. Morrison: Yes, certainly.

Mr Sorbara: I note that the position of most tourist operators is that they prefer people to be able to make free choices, and they are against the municipal option. I will confess my position to you on this bill. It seems to me to provide yet another variant of municipal options for municipalities. When you get right down to the heart of the bill, it does not give any satisfaction for the tourism industry at all because it provides that a bylaw to open stores may be passed only if there is compliance with tourism criteria set out in the regulations made under this section, so you have to comply with the criteria. But then it says in subsection 4(7), "The council is not required to pass the bylaw even if the tourism criteria are met." Do you see administrative problems or legal problems if a group of stores has established it really is a tourist destination and then a council arbitrarily refuses to pass a bylaw under this section?

Mr W. Morrison: Mr Sorbara, that is one of our main concerns. Depending on the persuasiveness of the given store management, they may be able to open in one municipality, but a counterpart in an adjacent community may not. In other words, it was a political decision of the municipality, and it does not abide by the criteria or creed of, "Is it fair to all concerned?"

Mr Sorbara: That does not give you any encouragement that there is going to be fairness under this bill. It certainly does not give me any.

Mr W. Morrison: We can see some inequities developing, possibly. Once given the decision I am not that sure it could be reopened to council.

Mr Sorbara: Right. Thank you.

Mr Carr: Thank you very much for your presentation. With your organization, do you have any idea what the average size of the members would be, a ballpark guess?

Mr W. Morrison: Mr Carr, I am not here representing motels per se, today. I am here representing Tourism Ontario, which is made up of attractions, campgrounds and the whole gamut as listed on page 1. It is very difficult to say. I do not think we have calculated what the average employment per business would be. But generally speaking, it is small business.

Mr Carr: That is what I was getting at, because as you know one of the themes coming out has been that big business wants it open and that small business does not. That is not the case, and I wanted to see, because your membership is made up of small business people as well. When you look at a situation like the one Mr Kormos was indicating earlier, where small family businesses may be put out of business as a result of having to open Sunday, the potential could be that small one- or two-family types of operations could be put out of business if you do not have Sunday opening. Is that your membership's feeling?

Mr W. Morrison: That is true. There are certain circumstances where the through-the-week traffic is very light and the major amount of business is done during the weekend, both Saturday and Sunday.

Mr Carr: Just for the benefit of the people in this area, because your organization has been fairly consistent, with the situation as it is now, you would like to see this bill completely withdrawn, then, so that there is not the option for municipalities to opt in or out based on tourist exemptions.

Mr W. Morrison: That is true. The bottom line we would like to see is to revert to prior to the previous government, where it was more or less left open.

Mr Carr: I think even your organization praised the tourism minister for pushing this on the agenda. I think without the tourism minister there would not have been the exemptions, and in one of the briefs they said they thanked him for that. They were not happy with the bill, but they said at least there was one individual in there pushing. It has been said that this government listened to the people in the tourism industry when it designed this bill, but the fact is that you come before us and say you are not happy with it. I just wondered why the contradiction.

Mr W. Morrison: If you will note on page 6, again, the exemptions that were provided in this bill we are very pleased with. We realize that Minister North did go to bat for us in caucus, for which we are very grateful.

Mr Carr: But overall you still would rather see the government withdraw the bill, that it was something that you are pleased with but your best case would be to have it withdrawn.

Mr W. Morrison: Our official position is included in the last paragraph of our brief.

Mr Carr: Right. Thank you very much.

Mr Mills: Thank you, Mr Morrison, for your brief, which is very informative and has some very good ideas. I have said many times in this hearing that we are here to listen and take back the ideas that folks present to us to consider when we make the final regulations going with Bill 115. I would just like to say that and ask you a question.

Over the years in Ontario we have come a long way in days off and family life and family values. One time a day is difficult, but now we seem to recognize that there should be a time for families to get together; there should be that common pause day. I think there have been many battles fought over that for the last 100 years, that I can remember. I have read your brief. Do you think that the values of society today should be the marketplace in economics? Is that the prime concern, do you think? Is it changing?

Mr W. Morrison: Sir, I can speak from some 57 years of experience in living that the sense of morals and standards are changing dramatically, together with what people perceive as standards of living: two cars in the driveway, three colour televisions, etc. That is real; unfortunately, that has become a fact of life, and in order to do that, you have to derive income. You are asking me a question that I do not know where the end is.

Mr Mills: Just your opinion.

Mr W. Morrison: That is a very difficult question to answer on a personal note. I have worked six days and six nights for many years in order to clothe and house my own family and have been ultimately rewarded well by it and have been in a position to provide for my family quite adequately. But it came through hard work. Given the choice of, do I work Sunday and build educational funds for my family, yes. I can hopefully make time at another point during the week to compensate for Sunday.

1020

The Vice-Chair: Mr Fletcher, if you can make it really brief, please.

Mr Fletcher: I will try to make it as brief as I can. Thank you for appearing before us today. It is always nice to see you here and I am glad you do recognize the fact that this government is making tourism a very important part of this piece of legislation.

In fact, next week, since this committee is not travelling, I am going to be a tourist myself. My family and I have planned a trip throughout the province, the southern part, up around Georgian Bay and up to Tobermory along the Bruce Peninsula.

Mr W. Morrison: Sir, you have not seen anything unless you have seen the Kawarthas.

Mr Fletcher: I agree. I have seen the Kawarthas. In fact, we do this quite often, this travel around the province in different areas, and this is one of these trips.

First, we wanted to go on a canoe trip, but the kids did not want to carry the canoe around, so we said, "Okay, we'll travel around." They picked the points of interest and so did we, and at no time when we were picking it did the fact that we could shop anywhere on a Sunday enter into it.

As I say, Midland because of the Hurons; Tobermory because of the underwater park they have; the different things that are going to attract us there. I am not saying that when we get there we may not shop; we may, but definitely not on Sunday. When we were planning the trip, though, the idea of Sunday shopping did not enter into it. That is just my comment.

As far as your industries are concerned, a lot of your members sell tourist type of products—Peterborough spoons and things. If there were unfettered Sunday openings, would there be a possibility of losing some of that business as far as the selling of some of the tourist attraction things, the Peterborough shirts or what have you?

Mr W. Morrison: Are you referring to certain tourist attractions, for instance, in my own establishment, if I had a relatively full-sized tuck shop with souvenirs, whatever?

Mr Fletcher: Yes.

Mr W. Morrison: Very definitely. There would be a loss of revenue, definitely.

Mr Fletcher: The unrestricted Sunday shopping as far as the tourism area, and they are tourist dollars that you would be picking up there, would definitely not be beneficial to your industry as far as that is concerned, the potential that you could have.

Mr W. Morrison: Having to close part of an operation certainly would be very detrimental; not as detrimental as

closing a connected restaurant, mind you, but certainly it is part and parcel of revenue derivation.

Mr Fletcher: Just one more little thing. You mentioned 15 years ago, and all the cars from the States and everything. It is great to be back in this area, because I spent many of my summers in Peterborough when I was going to school. I worked here, I went to camp here as a child. You are right, there were a lot, but during the 1960s and 1970s the gas prices, the price of cigarettes and the price of alcoholic beverages were better here than it was in the States—maybe not the alcohol but the gas prices were cheaper. We did not have the taxes heaped on it, and I know that is most of it. It was the reverse: People were coming from the States; people were coming from Quebec into Ontario. It did not really have anything to do with the availability of the shopping.

Mr W. Morrison: People will go where there is a deal and that is why Watertown is full of Canadians.

Mr Fletcher: That is right. Just a final point on the cross-border shopping: You sound very disgusted about cross-border shopping and that people should realize they are hurting their own country when they do it, but during 1990, when we had wide-open Sunday shopping and the availability—and that is one of the factors. The cost factor is number one and selection is number two and the time of shopping is number three on any survey that has been done. Sunday shopping during that time was wide open and yet crossing the border by Ontarians increased about 22% or 23% over the previous year.

Mr W. Morrison: That is very significant to me. After it was closed, from May to May, I believe—May was the first month in which stores were re-closed and cross-border shopping increased 25%, showing that at least we could have retained 25% of those, possibly.

Mr Fletcher: In 1989 it increased 20%; in 1990 it increased 21%; in 1991 it increased 25%. It is still going up—

The Vice-Chair: Thank you very much, Mr Fletcher.

Mr Fletcher: —as the marketing of the United States gets better.

Mr W. Morrison: But it becomes a thing to do, which in turn becomes a tourist activity. They go over, they stay overnight. The accommodations over there are bursting at the seams.

Mr Fletcher: That is right, and that is because if you stay longer you can bring more back.

The Vice-Chair: Thank you very much, sir, for your presentation. It was well worth the time. Again, I thank you very much for taking the time to come here.

JOHN STRANO

The Vice-Chair: John Strano, please. Mr Strano, have a seat. Relax. You have 15 minutes to make your presentation. You can divide that any way you like. I am assuming you have a brief to present and I am sure the fine gentlemen up here would like to ask you a question or two. You can begin when you are ready, sir.

Mr Strano: My name is John Strano. I am the owner of Farmboy Markets, a grocery store trying to do business in Ontario.

We have been in business 27 years, and out of the 27 years we have been open on Sundays for 26 of them. In the last few years I have seen the following increases, like everyone else, put a strain on our business: increased property and business taxes, an increase in unemployment insurance, energy costs, labour costs, Ontario employer health tax, and increased federal and provincial taxes.

I find it hard that the government is asking for more money to support these increased costs and on the other hand is bringing legislation to force me to close the store on Sunday, which eliminates one of the best business days in our trade.

I feel discouraged when I have to close on Sundays yet all around numerous restaurants, drugstores, convenience stores and gas stations in my immediate area are open. What gives the government the right to say some businesses can remain open and some businesses have to close? I was talking to the owners of Burger King and McDonald's, which are right around me, and they are in accordance with us opening. It would help their business, they say.

I am simply asking that my business receive the same privilege and the same rights as other businesses. I really feel that any business that feels it needs to stay open seven days a week to succeed should have that right. Our trade on Sundays was the backbone of our business week.

I took a survey of our customers and our employees. Out of 94 customers, 86 were for Farmboy to remain open; 8 were for Farmboy to remain closed. Out of 29 employees surveyed, 26 wanted Farmboy open; 3 wanted it closed.

Talking to our customers and business people, they all think that the legislation for grocery stores to be closed is ridiculous. Just within the last month, one of the major chain stores laid off 300 employees. If they could remain open, I am sure that would not have happened, plus they probably would have hired 300 employees, which is a difference of 600 working people.

1030

Farmboy employed seven people on Sundays. This was 95% part-time employees going to school who made anywhere from \$30 to \$65 per day, which helped them put themselves through school. They were responsible for the opening, closing and operation of the store. I do not think they could get any better training than that.

In closing, I would like to say that if the politicians who are making the legislation were in our shoes, they would want the right to operate their business the way they have to in order to make it successful. If we operated our business like the government is operating the country, the deficit, it would not be long before the banks would not honour our cheques. If the government cannot see what is happening—businesses going bankrupt, other businesses closing and moving to the United States—there is something wrong with it. If the government cannot see its way to change the law so we can open when we want, then it should close all businesses. I am just asking: just be fair

and honest. I thank you for this time that I could express my feelings.

The Chair: Thank you, Mr Strano. If you do not mind, there will be some questions from the committee members, approximately three minutes per caucus, starting with the official opposition.

Mr Poirier: Congratulations, Mr Strano. When you did your survey of your customers there was an impressive number in favour of it. Was that a Sunday survey? Was it done on a Sunday?

Mr Strano: It was done Sunday, Monday and Tuesday.

Mr Poirier: It would have been interesting if you had done it just on a Sunday and found some people who were against Sunday openings while they were in your store shopping. But then we would not have been surprised with that, being used to surveys.

I presume you are closed because you do not meet the criteria. For what reason? You are not a convenience store, I presume.

Mr Strano: No.

Mr Poirier: Okay, so you are too large a size to fit that category.

Mr Strano: We are 10,000 square feet.

Mr Poirier: Right. Are you outside a so-called tourist area also?

Mr Strano: Yes, but we are not designated a tourist area.

Mr Poirier: So it is a free-for-all for the moment. It was impressive to see the 29 employees, 26 for and 3 against, if I remember well.

Mr Strano: Right.

Mr Poirier: And while you were open on Sundays, you were open, I presume, for that period where there was a free-for-all. Did you notice any problems with the attitudes of staff or with those three, if you identified them, who were not happy with the place being open? Did you have any problems or have you heard of any of your colleagues who have had problems?

Mr Strano: There are always a few problems. We had problems with one employee and that was it.

Mr Poirier: Fair enough. How about your colleagues who may own other businesses around you? Have you heard anything?

Mr Strano: No, nothing at all. Another thing is we can open our garden centre on Sundays, where we cannot open the store. This spring, when they closed in March, at least six of our employees came and asked to work on Sunday outside in the garden centre because we are open.

Mr Poirier: I see. So if that was freedom of choice, like you propose and I support, you would feel this could come about with minimum pain?

Mr Strano: Yes, definitely.

Mr Poirier: And you would have enough customers on Sunday to justify it.

Mr Strano: Right.

Mr Poirier: Fair enough. Thank you, Mr Strano.

Mr Carr: Thank you for a fine presentation. I think you helped us take a look at some of the other issues as well and I thank you. On the first page, when you see some of the hurdles that are put in front of you, it must be very difficult to continue.

I just wanted to see in your particular case whether there is any chance for you to open under the tourism exemption criteria. Do you see that happening at all?

Mr Strano: No, I do not see it happening.

Mr Carr: Okay, and that is because of the municipality not wanting it. There cannot be any way that you could say your area is tourism?

Mr Strano: No.

Mr Carr: There has been some concern that people would be making some of the workers work on Sunday, because the government has said that this particular piece of legislation is to protect retail workers. The big fact is, though, that there are a number of other people who are working who have to work, and they singled out just the retail workers. I wonder if you could comment on your situation with the Sunday workers, how you handled that.

Mr Strano: We basically used, like I said, 95% of all part-time help. We did not use any full-time help at all. There was only one part-time help who really did not want to work on Sunday and she was not forced to work. For everybody who wanted to, we scheduled them every second weekend. We did not work them every weekend, and we worked them different shifts. There were short shifts and long shifts, so one week they would work 9 to 6 on a Sunday and two weeks they might work 10 to 2. They would have different times off, so it did not burden anybody.

Mr Carr: One of the comments that has been made by some presenters is that in this modern society, if you force people to work against their will and they are serving the public, they are going to have their face down to the floor and it is actually going to hurt them. They do not want people in there who do not want to work, because in a service industry, which many of the businesses are, it is going to actually hurt you. Has that been your experience as well, that if you try to force somebody to work against their will and if they do have their face down on the ground, it will actually cost business?

Mr Strano: We have never had that problem because we have never forced people to work. Like I say, we use all young kids going to school. They want the hours to put themselves through school. What I think is that when the younger people do work, they will make a lot better citizens and people after they get through school; they know what the real world is about before they even get there. I see so many people who go through college and they are just on a free ride, and then they get out and do not know what it is really about. We have had kids who are working who have been with us five and six years, the same ones.

Mr Carr: I just wanted to say that having experienced working for you would probably help them later on.

Mr Strano: That is right.

Mr Carr: Thank you very much for the brief. It was very well done.

Mr Klopp: Your brief at the beginning said you have been in business 27 years and you were open every Sunday.

Mr Strano: Every Sunday.

Mr Klopp: And then one year you were not. What year was that?

Mr Strano: It was a year ago March that we closed, from March until July. March 1990 we had to close.

Mr Klopp: What did you have to close for?

Mr Strano: They brought the law down.

Mr Klopp: Was there not a common pause day law before that? It just reintroduced the old law, did it not?

Mr Strano: It was restricted to 2,400 square feet.

Mr Klopp: But in 1989 that law was brought in, right? So you closed in 1989?

Mr Strano: No, no, it was not. When we first opened years back it was wide open. Then they brought a law in, I do not know what year it was, that you had to go down to 2,400 square feet; you could only use 2,400 square feet of your store, right?

Mr Klopp: That was March 1989, the previous bill.

Mr Strano: No, no, way back.

Mr Klopp: What ways back, like 1960 or what?

Mr Strano: No, I would say 1972, something around in there. I do not know the year.

Mr Klopp: So since 1972 you have been closed?

Mr Strano: No, in 1972 we blocked off our store. We closed for about six months and the business was not good, so we blocked off our store and opened with 2,400 square feet. We were open like that for years, 2,400 square feet blocked off. We would block off part of the meat counter, part of the produce counter and everything. Then after that, in March 1990, they brought down the law that closed everybody. You were not allowed to block off your store, so at that point we had to close. So we closed March, April and May and we opened up July 1.

Mr Klopp: After the law was struck down.

Mr Strano: Struck down in 1990.

Mr Klopp: So you were wide open and everything. Did you notice any increase in business then?

Mr Strano: Very much so.

Mr Klopp: You increased profit.

Mr Strano: Increased profit, increased sales. Then we were closed, and then this year we were open until March of this year again, and now we are closed.

Mr Klopp: I see. Thank you for that clarification.

The Chair: Mr Mills, you have a clarification? Mr Mills is the parliamentary assistant to the Solicitor General.

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Mr Mills: Thank you, Mr Chair, and thank you, Mr Strano. Some of your concerns seemed a little confusing about the law, when you said you were open for 26 years. I have a legal assistant here from the Solicitor General. She would just like to clarify the procedure over those years for the benefit of everybody here and the members of the committee.

Ms Scarfone: I am Janet Scarfone from the Ministry of the Solicitor General, legal branch. Perhaps I could be of some assistance with respect to the dates for the witness. The Retail Business Holidays Act came into force in 1976, and in subsection 3(1), it had the 2,400-square-foot requirement you were referring to.

With the 1989 amendments in February, there was a provision banning roping off; that is, the reduction in store size from a larger store to a smaller store size to fit the requirements of the legislation. So there was a banning on roping off in 1989, with the amendments of that time.

Mr Strano: In 1989?

Ms Scarfone: February 1989. The 1989 amendments introduced a provision which banned roping off.

Mr Strano: What date?

Ms Scarfone: In February 1989. That is the downsizing of a larger store to fit the size requirements, but you are correct in saying that it was in the 1970s, in fact in 1976, where the square footage of 2,400 square feet was introduced.

The Chair: Thank you very much, Mr Strano. Very interesting when we get down to, as you were saying, the actual square footage and some of those issues and how they affect people. Very interesting presentation.

Mr Morrow, we had some discussion in regard to the 10:45 time slot. Are you aware of that?

Mr Morrow: Mr Chair, I have no problem with going on if that is the decision of the committee.

MOTELS ONTARIO

The Chair: If it is possible, I believe we have an 11 o'clock presentation from Motels Ontario. Are the representatives here? Please come forth, gentlemen. I apologize for the juggling of times. I was not aware myself until a few moments ago. We have approximately half an hour. Mr Bruce Gravel, and could you introduce your colleague as well, please.

Mr Gravel: This is Mr Allen Morrison from the Peterborough area. We will be introducing him further in a couple of minutes.

The Chair: Thank you. Please proceed.

Mr Gravel: Good morning, ladies and gentlemen. Thank you for the opportunity of making a presentation to your committee on Bill 115.

Before you today are two individuals representing Ontario's tourism industry, specifically its motel and motor hotel sector. My name is Bruce Gravel. I am the chief administrator for the motel association's non-profit trade association, Motels Ontario. Motels Ontario is headquartered here in Peterborough. Our members comprise 1,000 motels, motor inns and motor hotels located in all sectors and regions of Ontario. We currently represent 64% of Ontario's motel industry.

The mission statement of Motels Ontario is this: We exist to further the welfare of the Ontario motel, motor inn and motor hotel industry by all available means.

Ninety-five per cent of our members are independently owned and operated motels and motor hotels.

These properties are most often run by a husband-and-wife team of owners and operators. These motels are not affiliated with any of the major provincial or national motel chains. As such, our members therefore are true small business enterprises. The entire financial livelihood of the owner-operator is tied up in his or her business.

With me here today is a representative of one such business.

Mr A. Morrison: Good morning, ladies and gentlemen. My name is Allen Morrison. I am the general manager of the Otonabee Inn, which is located in Peterborough. This is a family-owned and family-operated business. My father and mother purchased the business over 20 years ago. My brother and I literally grew up in this business. Our property has steadily expanded over the years from a small 20-unit motel to its present size of a 78-unit motor inn complete with meeting and conference facilities and indoor recreational facilities. In addition to being the general manager of the Otonabee Inn, I am a volunteer director on the board of the Motels Ontario association.

At the Otonabee Inn, we employ 20 full- and part-time employees. Like most of the employers in Ontario's motel industry, our employees represent a politically important cross-section of Ontario's workforce, including women and students.

In addition to my volunteer duties with Motels Ontario, I am also involved locally with the Peterborough Chamber of Commerce and other organizations.

Sunday shopping is important to the tourism industry in Peterborough and the surrounding area. Particularly in smaller communities such as Lakefield and Buckhorn, there are hundreds of tourists each Sunday walking the streets, eager to shop, particularly if the weather is bad.

Mr Gravel: Three years ago when Sunday shopping was again an issue, the Solicitor General of Ontario circulated portions of a comprehensive study entitled *Blue Laws: The History, Economics and Politics of Sunday Closing Laws*. This was edited by two American researchers. The American researchers compared 10 blue-law states in the United States with 10 non-blue-law states. The results of this study had interesting insights on the whole Sunday shopping question. I thought it would be appropriate at this time to reiterate some of the highlights, now that Sunday shopping is once again an issue.

Experiential and economic evidence compiled in this study shows that church membership and per capita church contributions were not adversely affected in states with no Sunday closing laws. It also showed that per capita income is higher in non-blue-law states. It showed that the quality of life is enhanced in non-blue-law states, judging from a greater propensity to visit and utilize parks and recreation areas in these states than in blue-law states. Net employment increases considerably in many retail establishments that are open on Sundays. The study also found that there are many people who want to work in retail establishments on Sundays on a part-time or casual basis. You have heard evidence to that effect this morning and I am sure in the past several weeks as well. Businesses experienced 10.1% greater sales per outlet in states with no commercial

restrictions on Sunday than in those states with blue laws. Opening Sundays to commercial activity had the net effect of increasing the total amount of economic activity and not just simply redistributing six days' worth of sales across seven. Those are just highlights from this study, *Blue Laws: The History, Economics and Politics of Sunday Closing Laws*.

On July 29, you heard a presentation from the Tourism Ontario federation in Toronto. Motels Ontario is a founding member of the Tourism Ontario federation. As I am sure you are aware, that is the umbrella association of Ontario's 23 tourism trade and travel associations. Part of their presentation included a 16-page brief. The Motels Ontario association fully supports the federation's brief and its presentation to you of July 29.

We cannot overemphasize the importance to Ontario's vital tourism industry of Sunday shopping. In addition to the comments made by Tourism Ontario on July 29, you have since heard similar comments from other Ontario motel owners, including Mr William Morrison this morning.

Last year, 1990, and again this year, Ontario's tourism industry has been devastated. Occupancies were down 20%, on average, in 1990 over 1989. Occupancies have fallen a further 20%, on average, so far this year over last year. Bluntly, tourist traffic is falling off, ladies and gentlemen. Fewer and fewer Americans are coming into Ontario for a vacation experience. You heard a statement to that effect earlier this morning. More and more Ontarians are vacationing south in the United States.

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Tourism needs all the help it can get. Retail shopping, including Sundays, is one way of providing some help. In countless surveys done by federal and provincial authorities shopping ranks as a key tourist activity, even ahead of dining out. I have here a statistical survey that was done by Statscan as part of what they called the Canadian Travel Survey. They were focusing on getaways. A getaway is defined as a short three- or four-day trip as opposed to a formal one- or two-week vacation. When people get away for a three- to four-day trip their favourite activity, their number one pastime, is shopping—41%. That is ahead of sightseeing, which is 40%, that is ahead of visiting, which is 36%, and it is ahead of dining out, which is 34%. This is specific to a getaway weekend. The comment I made earlier applies to vacations in general.

Some more examples: In 1988 retail purchases represented \$2.2 billion of all tourism expenditures in Ontario. Direct jobs in that year created by the retail sector amounted to the equivalent of 29,000 full-time jobs, or 14% of total direct employment, in the tourism sector. The total impact of tourism-related retail purchases in 1988 on tax revenues generated by Ontario was \$366 million, \$134 million for Ontario municipalities and \$602 million for the federal government. Retail shopping, ladies and gentlemen, is an integral part of the tourism experience. It represents a significant portion of all tourism expenditures in Ontario. Most retail shopping takes place on weekends. We believe the majority of Ontarians and visitors to Ontario favour unrestricted retail shopping on Sundays and holidays as part of their family activities.

Mr A. Morrison: Ontario is currently losing billions of dollars of annual tourism and retail sales to bordering American jurisdictions which are wide open for retail business on Sundays and holidays. Recent statistics from Statistics Canada, which were widely quoted in the media in July, show that cross-border shopping is up by almost 20% over last year. In May 1991, 5.2 million same-day trips were made by Canadians into the United States. That is up from 4.4 million in May of last year. The more restrictive this government makes Sunday shopping, the more this province, its tourism businesses and its employees continue to lose money to American border states.

We do commend your government for endeavouring to recognize the value and importance of tourism in Bill 115. The bill does contain some tourism exemptions. However, we are concerned that the legislation, as currently written, will result in costly and time-consuming administrative burdens and litigation. Why? Because municipalities and retail businesses will have a hard time trying to interpret, comply with and apply the proposed provincial tourism criteria in the context of a common pause day. A wide divergence of opinion over the legal significance of the criteria is already emerging in the municipalities. This divergence of opinion will lead to an unfair patchwork of exemptions which will have nothing to do with tourism.

As Bill 115 is currently written, the tourist criteria are to be contained in regulations to the act and carry the weight of law. As a result, the government will be free to amend the criteria at will without public consultation or legislative review. To avoid the potential of significant change without public review, we propose that these regulations be embodied in the legislation. Legislation requires legislative review prior to amendment.

Also, in what we believe is a recognition of the complexity of the tourist criteria, we understand that the NDP is privately developing additional guidelines. Included in these additional guidelines will be the NDP's definition of a "tourist" and "tourism." To date, the government has failed to conduct full consultation on the content of the additional guidelines. We believe that a full public review of these guidelines is vital if the public is to fully understand the impact of the government's amendments.

Tourism Ontario Inc proposed a definition of "tourism" in its brief to you, which we recommend be adopted. That definition was:

"Tourism is the direct supply of goods and services to facilitate business, pleasure and leisure activities...away from the home environment. It covers a broad range of products and services including: transportation...; accommodation; food and beverage services; live and participatory entertainment, ie festivals, events, culture and the arts, athletic competitions, conventions, meetings and symposiums; amusement activities...; and to a very significant extent, retail shopping."

Mr Gravel: We add our voice to those you have already heard from Ontario's tourism industry. We ask that this committee must seriously consider Tourism Ontario Inc's recommended changes to the proposed Retail Business Holidays Act amendments and regulations. These suggestions

were detailed in the federation's brief to this committee presented on July 29. Some highlights are:

Regarding the tourism criteria regulations, subsection 1(2), tourist area characteristics, the federation believes the list of characteristics should be expanded to include (a) tourism in the area which has historically been an important part of the local economy and (b) providing goods or services necessary to tourist activities in the area.

Regarding subsections 2(1) and (2), retail business restrictions, this whole section is redundant and should be removed. The number of persons serving the public and the floor space occupied by a qualifying retail business should have no bearing on its ability to meet common tourism criteria.

With regard to paragraph 3(1)2, the tourism season qualifier, these time periods will vary within a designated tourist area, as will the length of the tourism season for various types of qualifying retail businesses, due to a wide variety of market-driven circumstances. This qualifier should therefore be removed.

Mr A. Morrison: Part I, the Retail Business Holidays Act amendments: First, with regard to the empowerment of local municipal councils, clause 1(1)(aa) should be amended to permit all local municipal councils within a district, county, metropolitan or regional municipality to enact bylaws to permit retail businesses in each local municipality to be open on holidays for the maintenance or development of tourism. It is an unnecessary duplication to burden metropolitan or regional councils with applications from local councils regarding tourist area exemptions.

Second, with regard to councils' obligations, in subsection 4(7) municipal councils should not be granted discretionary power through which they can refuse to pass a designated tourist area bylaw which would permit retail businesses which do in fact meet the provincial tourism criteria to be open on Sundays and holidays.

Third, with regard to councils' decisions, in subsection 4(8) it is undemocratic that a given municipal council's decisions would be final on whether it wished to pass a bylaw to permit retail businesses to be open on Sundays and holidays for the maintenance and development of tourism. This defeats the whole purpose of having such authority in the first place. This clause means that once a municipality has made its decision not to allow an exemption, in future years no reasons could ever be presented or no new tourism developments could ever occur that would cause it to change its mind.

Fourth, with regard to the procedures of councils, in clause 4(9)(d) municipal councils should not be granted the power to limit the number of applications from retail businesses that they will consider in a given year. Businesses should be free to apply for the exemption at least once every calendar year.

Mr Gravel: Last, in the transitional rules we recommend that subsection 6(2) of the Retail Business Holidays Amendment Act, 1989, be retained as transitional rules for the purpose of the Retail Business Establishments Statute Law Amendment Act, 1991. The provision of tourism criteria to exempt qualifying retail establishments from Sunday

and holiday closing requirements in Bill 115 is laudable. However, it establishes a minefield of obstacles to the realization of these laudable objectives. It is unreasonable to require that all municipalities in Ontario must comply with the transitional rules as set out in Bill 115.

Regarding part II of the bill, the Employment Standards Act, Ontario's tourism industry is grateful that the proposed amendments to part XI-B of the Employment Standards Act do recognize the operating realities of our industry. It is important to remember that employers in our industry and all other industries must retain the absolute right to schedule work and to dictate work schedules. It is worth while repeating that of the more than 10,000 inquiries and complaints registered with the employment standards branch of the Ontario Ministry of Labour in 1990, fewer than 15 were related to the right of retail workers to refuse to work on Sundays and holidays.

Mr A. Morrison: In conclusion, Sunday and holiday shopping has become an economic necessity for many thousands of Ontarians as they struggle to balance working realities with their personal and family responsibilities. It is also the primary tourism activity for tourists in our province. The province of Ontario and its municipalities benefit directly and considerably from tourism expenditures. All levels of government are constantly searching for new sources of revenue to fund all manner of social services, education, better health care, improved roads and affordable housing. Government recognition and protection of tourism values and the operational realities of the tourism industry at both the provincial and municipal levels will enhance significantly the ability of government to provide said services for all citizens.

Mr Gravel: We do commend the Minister of Tourism and Recreation, the Honourable Peter North, for recognizing the value and importance of tourism in Bill 115. However, we remain very concerned that the full potential of our industry related to Sunday shopping as a major tourism activity will not be realized unless significant amendments are made to the act. We add our voice to the recommendations of the Tourism Ontario federation that this committee and the government of Ontario seriously consider all of the facts and recommendations detailed in the brief from Tourism Ontario and in our brief remarks to you today. Thank you, ladies and gentlemen, for your kind attention and your serious consideration of our views. In the time remaining to us, we would be pleased to try and answer any questions you may have.

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The Chair: Thank you very much, Mr Gravel and Mr Morrison. We have about three minutes per caucus after Mr Mills has made his short verification. Mr Mills is the parliamentary assistant to the Solicitor General.

Mr Mills: I would just like to refer to your brief, page 6, paragraph 3, where it refers to subsection 4(8). You say that this clause means that once a municipality has made its decision not to allow an exemption, in future years no reasons could ever be presented. I can tell you, sir, that a business can reapply for another hearing, provided it meets the criteria. So the door is open. Perhaps I can give you an

example that, if they made an application and it did not meet the criteria and they did something about that, then they could reapply and get another hearing. So the door is always open.

Mr Sorbara: During the course of these committee hearings, some of the government members have argued, in response to submissions by tourist operators and tourist associations, including Tourism Ontario, that retail shopping need not necessarily be integral to the experience of tourism. That surprised me, particularly when I heard it on Monday. We were in Ottawa on Sunday night, staying at the Delta Hotel. I was flipping through that booklet that is in many hotels, I think it was Key to Ottawa or something like that, and there were three kinds of ads in the book, generally speaking. There were lots of ads, but the three kinds that I noted were ads for restaurants, ads for local attractions, including, I think there was a blurb in there for the Ottawa Exhibition, and finally, there were lots of ads for retail shopping: jewellers, clothing stores, shopping malls and that sort of thing.

If it turns out that the province closes down much of the retailing sector on Sundays, what kind of impact do you think it is going to have on the viability of motels, hotels and motor hotels in the province?

Mr Gravel: It will have a significant impact. Contrary to some people's belief, shopping, and I completely agree with you, is an integral part of the vacation experience. I quoted a survey of Statistics Canada just on getaway vacations where shopping is an integral part of the total tourism experience. It is number one, actually, it is 41%, higher than sightseeing, visiting and dining. People do not necessarily plan to shop when they plan a tourist vacation, whether it is a getaway or whether it is a one- or two-week thing, but shopping invariably is one of the first things they do, if not the first thing they do, once they have reached their destination.

Mr Sorbara: I have one other brief question for you. You argue in this brief, as Tourism Ontario argued, for an expansion of the definition of tourism. Presumably you argue that so that more retailers could come within the definition of tourism so a larger number of retailers could presumably take advantage of the tourism exemption if the local council approved it—although, as you point out, it does not necessarily have to approve it, even if you meet the criteria.

Do you really believe that is fair, simply to expand the definition of tourism? What about the retailer who is trying to compete with competitors who do come within this expanded definition? The retailer does not quite get in there and as a result has to stay closed on Sunday, while his or her competitor does come within these tourism criteria. Why is it fair simply to expand the definition of tourism?

Mr Gravel: Certainly it would be fairer to all concerned. The retailer that is forced to close because he does not meet it and yet his competitor, perhaps because of proximity to an attraction or a combination, does meet it and opens—that is not fair to the retailer who must close. It is not fair to their employees either. People do want to

work Sundays. There is a significant segment of the population that wants to work. They need the money.

Another reason behind the push for an expanded definition of tourism is that many people have the idea that a tourist is somebody from out of province, presumably, or more specifically perhaps from the United States. They have bags on the roof—

Mr Sorbara: And under their eyes.

Mr Gravel: —and under their eyes, because of the screaming kids in the back, and they have a foreign plate so they are a tourist.

Mr Sorbara: I know. I have been there.

Mr Gravel: I think we all have. That is not really what a tourist is. One of the honourable gentlemen here mentioned that he is going to be touring southern Ontario, and presumably he lives in the southern Ontario area. He is a tourist. He does not have a foreign plate, he does not have an out-of-province plate, but he is a tourist. My family and I just got back from a week touring around the Muskoka and Haliburton area of Ontario. That is less than 100 miles from where we are today. We were tourists. We stayed in accommodation, shopped at stores—those that were open—and went to attractions and so forth. When you leave your home environment, you are a tourist, whether you have left it for business or for a short getaway, as we did, or whether you are leaving for a week or two. If you are not staying at home, if you have left your immediate home precinct, you are a traveller, you are a tourist.

Mr Carr: I will be brief. I was interested in page 4 where you talk about regulations, saying that you do not like to have any regulations. I was thinking back to the Police Services Act, when Ed Phillips, who is now the Industry, Trade and Technology minister, went on and on about how he did not like things put in the regulations. Of course, as you know, it was through those same regulations that this government eliminated the oath to the Queen. I think even Mr Kormos was on that police services committee and was opposed to—

Mr Kormos: No, Gary, that was not Ed, that was me. I was the critic.

Mr Carr: Both of them. They were travelling and they both said, "Don't put in regulations; we can't." Both Ed and Peter felt that way with the Liberals when we brought in the Police Services Act. Of course, when you do have the regulations, then they can be changed. Like I mentioned, when this government got in, it changed the oath to the Queen in regulations, with no public debate, and it was pushed through.

So I take it from page 4 that what you are saying is that you want it out of the regulations and into legislation so that if it does need to be changed, for whatever reason, there can be the public, open debate we are seeing here today.

Mr Gravel: Absolutely.

Mr Carr: Another question I have relates to the municipal option. As you know, it is the municipalities that will interpret the law. As a result, a lot of people have said that when you do that, it will leave it as broad as the tourist exemptions are now; it is going to be open to interpretation

and we are going to have a patchwork situation where people interpret it one way or another. It will really not be based on tourism criteria, but it will be based on the politicians and the municipality and their prejudice one way or the other, so both sides will not be happy. With this piece of legislation then, you would rather see it remain in the hands of the province, that it does not hand it off to the municipalities?

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Mr Gravel: That is correct, yes, to avoid the very things that you just put your finger on.

Mr Carr: What I am fearful of is that what is going to happen is that then there will be a lot of litigation. Regardless of what side you are on, people will say you did not interpret it, and without having a higher authority to go to, what people will do is go to the courts, and what we are going to see a year from now, after this particular piece of legislation is introduced, is that we are going to have a patchwork situation. There are going to be significant portions of the province that will be open and the ones that are not will be in litigation saying they should not. Unfortunately, I think what we are going to be seeing down the road is that this question is not going to be settled for a significant period of time. If this bill does not change, is that what you see happening as well?

Mr Gravel: Yes, absolutely. I think you have put your finger on one of the major concerns the tourism industry has, and our legal system certainly does not need additional cases on its case load; it is already overburdened.

Mr Carr: There are 30,000 cases right now that have been kicked out because of the backlog. Thank you. Good luck.

Mr Fletcher: Thank you for your presentation. It is good to see the recommendations. As you know, this committee is going around and it is listening, and when we see the recommendations—some of them I agree with, some of them I do not, but I am speaking for myself and not for everyone else.

I definitely agree with you that any government should conduct most, if not all, of its business in public. Something I have always agreed with and something that I think is an integral part of any government is to conduct its business in public, not behind closed doors, and with consultation. I agree with you and I will be voicing that opinion.

As for some of the things you have been saying as far as the cross-border shopping and what is going on are concerned, you perhaps heard before when I was saying that Ontario resident travel to the United States in 1990 was up 21% with wide-open Sunday shopping; in 1989 it was a 20% increase when we had the municipal option; in 1991 it is already 25%. The availability of being able to shop in Ontario on a Sunday has not lowered or even been a detriment to people going across the border and spending their money. I am not saying it does not play a part, because I think it does; I think it does a bit, but not as much a part as our dollar and the GST and free trade and everything else that is going on. I know I have heard this from the other briefs your organization has presented, that this is what is happening. It does not really pain me; it just bothers

me that the Sunday shopping issue is being seen as the determining factor. I know you do not believe that is the way it is.

Mr Gravel: That is correct. I agree with your statements. It is one of a series of factors: certainly the taxes that have to be charged on our goods; since January 1 now we have the GST. People are travelling south for various reasons, and as a presenter said earlier today, one of the primary reasons is bargains. Why can they offer bargains down south that we cannot here? It is because of the taxes. A significant reason is the taxes. There are other reasons, such as the wages they pay their employees versus the wages we pay, the social programs we support versus the ones they do not, and so forth. Sunday shopping is a factor overall. It is certainly a key factor, but it is not the only factor. I agree with you there.

Mr Fletcher: One other thing: When I look at your statistics for last year, 1990, and again this year, you say occupancies were down 20% on average in 1990 over 1989. I am in a bit of a quandary, because I have some figures from the Ontario Ministry of Tourism and Recreation, and let me just read it you. For the year 1990 compared to 1989, stay with friends and relatives, the dominant accommodation used by Ontario residents, measured in person-nights, increased by 11.6%; primarily commercial accommodations stays—hotel, motor hotel, motel, resort, lodge—increased by 53.6%. You are saying it was down 20%.

Mr Gravel: It is amazing how different surveys can produce totally different results. The figures I am quoting come from the Canadian Tourism Research Institute, CTRI, which is a division of the Conference Board of Canada operating out of Ottawa, and they interface, if I can use that word, with the Statistics Canada gathering and computer data banks.

Just as an aside, and members of the Ontario ministry of tourism will doubtless back me up on this, there has been a long-standing conflict between the figures that the ministry of tourism puts out versus the figures that Statscan and CTRI puts out. They never agree. I can further state that relating to the Ontario motel industry, which is our specific focus at our association, in surveys of our members which are not reflected in the ministry of tourism survey or the CTRI survey from Ottawa, our own members have told us that they are down 20% last year over 1989, and they are down a further 20% this year over 1990. It is those figures that I am using.

Mr Fletcher: As you say, it may be the way that data is collected. You could be wrong; we could be wrong.

Mr Gravel: The marketplace really shows what is going on. A presenter earlier today referenced Toronto hotels going bankrupt. That is a fact. There are at least six other Toronto hotels that are on the block right now, vainly trying to find a buyer. I know my motel members—I was in touch with a number of them in Ottawa just last week—are down 20%. Normally they are 100% full in the summer—

Mr Fletcher: This year?

Mr Gravel: This year they are down 20% and last year they were down as well. Border state areas, Kingston, Cornwall, Gananoque—absolute disaster areas. Americans

used to come up and stay over. Now they are doing day trips. They see our high prices. Gasoline and alcohol are—

Mr Fletcher: And GST.

Mr Gravel: And GST. They do not understand that they can get it back, and when they do understand it they have to face a four-hour lineup to get it back. They are just turning around and going back at night.

Mr Fletcher: What you did not really address in your brief, which has been addressed in other briefs, is how much employment is going to increase with Sunday shopping. It is funny, because in 1990 we had wide-open Sunday shopping for that nine-month period and yet the average monthly employment was down about 5% for the accommodation area, and it was also down about 7 1/2% for food and beverage. But the pickup, as far as tourism is concerned, was in the recreation and amusement areas, and that is where the pickup in employment was. And you can see that with the attractions that are being built—Wonderland and whatever else—that is where it seems that the tourism dollars are starting to pick up and get spent.

Mr Gravel: No argument there with those statistics. I would suggest several factors. First of all, the nine-month period was too brief for the full impact really to start changing the public's traditions and habits, and the attractions and recreation pickup happened immediately. Perhaps the public's habits would take longer to change regarding accommodation and food. The other factor is the recession, where people would start curtailing overnight trips or dining out trips. This recession really impacted halfway through 1990 and has continued until recently. We are told it is officially over, although the tourism industry has not seen any sign of that.

Mr Fletcher: Neither have I.

Mr Gravel: Just as an aside, the tourism industry is the first industry to feel the impact of a recession, weeks and weeks before other industries, and we are the last industry to come out of it.

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Mr Kormos: One is hard pressed to dispute what you have said—this has been your experience. But I do want to ask you about your correlation between a decline in tourism and occupancy in hotels/motels. In Toronto that is certainly the case. I come from Welland-Thorold where Niagara Falls—great attraction for not just decades but longer, and it is no big secret that Niagara Falls is no longer the destination that it once was, and if it is a destination, sadly not an overnight destination.

I am told, and perhaps you would know more than I do, that places like Manhattan which have Sunday shopping—Times Square, burned-out buildings, but let's not dwell on that—destinations like Manhattan have also suffered serious declines in occupancy in hotels, and motels to the extent that they exist.

I appreciate what you are saying and I know that the two figures are there side by side. I am concerned about the interdependency, I am concerned about whether, in fact, one relates to the other, because you have a whole lot of jurisdictions with Sunday shopping which have suffered

similar declines in occupancy that we have suffered and you have in this area here in Ontario. Can you talk about that?

Mr Daigeler: Question.

Mr Kormos: Who said "Question"?

Mr Daigeler: I did.

Mr Kormos: Mr Daigeler, if perchance you are a Chair or a Speaker some day you can question, but until then bear me out. You learn more by listening than by interrupting.

Mr Daigeler: I listened—

Mr Kormos: Please, Mr Daigeler. Did I interrupt you?

Mr Daigeler: You promised us to be brief—

Mr Kormos: Did I interrupt you?

Mr Daigeler: —so we granted you the time, the extra time.

Mr Kormos: Give the man some novocaine. Could you comment?

Mr Daigeler: Mr Chairman, Mr Kormos relied on our indulgence to speak beyond the allotted time. I think he is really going beyond. He is straining our patience. That is my point. We are certainly flexible in providing extra time, but if Mr Kormos does not use our patience in the way that is reasonable and expected, then I think we have to enforce the rules strictly.

The Chair: Thank you, Mr Daigeler. Mr Kormos, please.

Mr Kormos: Mr Daigeler sits there like an illustration from a Kurt Vonnegut novel and he embarrasses all of us. In any event, would you please—

Mr Sorbara: On a point of order, Mr Chairman: As whip for this caucus, this is absolutely not necessary. We have heard my friend from Welland-Thorold advise my friend from Nepean to take some novocaine, and now refers to him as an illustration from some magazine. This is an embarrassment for me—

Mr Kormos: A Kurt Vonnegut novel.

Mr Sorbara: From whatever. May he just proceed with the question.

The Chair: Mr Kormos.

Mr Kormos: It is these gentlemen's turn now.

Mr A. Morrison: Statistics have shown that shopping is a major activity when people are on vacation, whether it be a week or a getaway; more so when it is just a getaway, and the getaways happen often on weekends.

You state that in jurisdictions where there was wide-open shopping, the net occupancies were negative. It is hard to judge, but my feeling is that the occupancies could have been worse if the Sunday shopping was not there. We do not know what positive effects it had. I am stating that the negative effects of taxes and the economy versus the positive effects of the fact that those jurisdictions had open Sunday shopping still came out negative. I do not think, just because Sunday shopping was available and we see a negative occupancy rate, that Sunday shopping does not help. That is my answer to that one.

The Chair: Mr Sorbara, one question, please.

Mr Sorbara: I actually do not have any other questions for the witnesses, but I do have a request for information from the ministry of tourism, if I can put that to the committee now.

The Chair: Perhaps we could allow the witnesses to retire.

Mr Sorbara: I think there are representatives from the ministry of tourism.

The Chair: Thank you very much, gentlemen, for a very interesting presentation, and you were very patient with us.

Mr Sorbara: My request for information arises from the testimony of these witnesses. If you would prefer me to wait for legal counsel from the ministry to return, that is fine, I do not think they are far away, but it will be in Hansard and it is not as if we need the information this afternoon or tomorrow.

The Chair: Perhaps someone could record your request.

Mr Sorbara: As I listened to the questioning of the last witnesses, I heard them state that their surveys had shown a decline in occupancy rates 1990 over 1989 by some 20%. They also testified that this year as well they are seeing a 20% decline over 1990. Now, at the same time I heard Mr Fletcher quote surveys from the Ministry of Tourism and Recreation which suggest that occupancy rates had improved by some 53% 1990 over 1989.

I have not done any surveys myself, but anyone who has been just about anywhere in this province gets the sense that the hotel/motel industry is hurting very, very badly. In fact, just to give you a little anecdote—

The Chair: Your question?

Mr Sorbara: My concern is that if the Ministry of Tourism and Recreation is operating on the basis that the motel/hotel industry has experienced a 53% increase in business year over year, this would account in some measure for the way in which it has been approaching that industry. They obviously are approaching it as if it is booming.

Could I ask the Ministry of Tourism and Recreation to submit to this committee some information or some data or some explanation as to the difference between its understanding of how business is going in that industry and the understanding of representatives from that industry?

The Chair: Do we have the representative present from the—

Mr Sorbara: No.

The Chair: Okay, but Hansard will have a record of your—

Mr Sorbara: If we could have that information some time before these hearings complete, that would be fine.

The Chair: Could someone ensure that the representative is aware of that request and that as soon as it is available it would be forwarded to him?

Mr Mills: He is on the telephone now.

1130

PETERBOROUGH AND DISTRICT LABOUR COUNCIL

The Chair: Our next witness is from the Peterborough and District Labour Council. What is your name, sir?

Mr Shewring: Dean Shewring, president of the Peterborough and District Labour Council.

The Chair: We have about half an hour. Please divide that time as you wish between your presentation and an opportunity for the members here to pose questions.

Mr Shewring: Good. I will try to do it in five minutes.

The Peterborough and District Labour Council is pleased to have this opportunity to present its views before the standing committee on administration of justice dealing with Bill 115.

I, on behalf of the executive council and delegates to the labour council, would like to thank the members of the committee for coming to Peterborough to allow the views of its citizens to be heard.

The Peterborough and District Labour Council is a chartered affiliate of the Canadian Labour Congress and represents CLC affiliated local unions in Peterborough county plus Omeme. The labour council represents over 5,500 trade union members in 44 affiliated locals in both the public and the private sector. The goal of this labour council is to "promote the interests of its affiliates and generally to advance the economic and social welfare of workers."

The question of Sunday shopping and Sunday work has been plaguing various provincial governments for a number of years. The trade union movement has watched this issue being batted about the Legislature, the courts and the press for the past few years with mixed feelings of sometimes hope, and mainly dread.

Briefs you will receive from other organizations and trade unions will focus on the proposed changes to the Retail Business Holidays Act. We feel the proposed changes to the Employment Standards Act deserve to be examined more closely in the light of both intentions and enforcement. Therefore, this brief from the labour council will touch on those questions related to the Retail Business Holidays Act in a peripheral fashion and hopes to deal more thoroughly with the questions raised by the proposed changes to the Employment Standards Act.

The labour council and the labour movement in general recognize the difficulties inherent in dealing with a question as complex and controversial as that of Sunday shopping. We feel the need to see our fellow workers protected under any proposed legislation dealing with this matter. Our concerns are summarized as follows:

The intent of the Retail Business Holidays Act; the municipal option; drugstore openings on Sunday; enforcement of the Retail Business Holidays Act legislation, and the definition of a retail business. All of those particular concerns are dealt with in the brief on Sunday shopping work submitted to your committee by the United Food and Commercial Workers International Union, plus we have added that the question of enforcement of the Employment Standards Act be examined with the goal of expanding information services, providing more offices across the province, and engaging in more active and vigorous enforcement practices.

The question of work on Sundays and holidays has been a concern to the labour movement since its inception.

More recently, unions have been reacting to provincial government initiatives to deal with the question of Sunday shopping. Below, as an example, is a resolution submitted to the Ontario Federation of Labour convention in November 1986 by the Retail, Wholesale and Department Store Union, and you can read that at your leisure.

The United Electrical, Radio and Machine Workers Union, of which Local 524 at General Electric Canada is the largest union local in Peterborough, passed the following resolution at their UE convention in June of 1988, and that is given on the following page. You can read that as well.

Even such unions as the Canadian Union of Postal Workers have confronted the question of Sunday work in their resistance—

Mr Sorbara: Excuse me. I do not have a copy of this brief, so I cannot read it. Was a copy of the brief distributed?

Mr Shewring: It is right beside you.

Mr Sorbara: Thank you. Sorry to interrupt.

Mr Shewring: We are on page 5.

Even such unions as the Canadian Union of Postal Workers have confronted the question of Sunday work in their resistance to the creation of weekend part-timers, the idea that Canada Post Corp would have a staff of employees who would work only on weekends. It can easily be seen where such an idea would lead: weekend workers taking a second full-time job just to make ends meet.

To bring us to the present day, the Ontario Federation of Labour, representing over 800,000 Ontario workers, has endorsed the brief of the United Food and Commercial Workers Union concerning Sunday shopping and working. The UFCW brief deals with the weaknesses as perceived in the proposed changes to the Retail Business Holidays Act. The labour council endorses the recommendations of the UFCW Sunday shopping and working brief, and urges the standing committee on administration of justice to do likewise.

Peterborough and area had the opportunity to sample the experience of Sunday shopping during the summer of 1990, after the previous law had been rendered invalid by the Supreme Court of Ontario. The results were very interesting and instructive for those wondering if the public really wants to have general retail shopping on Sunday.

A set of clippings from the Peterborough Examiner are submitted as the last five pages of the brief, which illustrate the initial, if limited, enthusiasm in which Sunday shopping was first greeted in July 1990. Even after the first week, the novelty was starting to wear off and serious questions were being raised at Peterborough city council as to the long-term consequences.

If I can break away just for a moment from my prepared statement, I had some personal experiences observing this in Peterborough where, for example, the larger mall, which is a few minutes from my home, was counting Sunday shopping as a great opportunity. The grocery store was open. The mall was open for business. Also, one of the retail stores was open. However, when they opened, only a few of the smaller retail stores bothered to take part in the Sunday shopping. It takes volumes of people. The idea of malls is that the larger stores draw the crowd and then the smaller stores get the overflow. There were not any

huge crowds coming on Sunday, so as the summer progressed, the smaller stores in the mall closed and gradually the whole thing fell apart by the end of the summer. As the summer progressed, several small stores had given up on the experiment and by the end of the summer even the large stores and malls realized there were too few customers to justify Sunday opening.

Peterborough's experience with Sunday shopping makes it very doubtful that the city will take advantage of the Retail Business Holidays Act to create tourist areas. This does not mean the issue of Sunday work is dead in Peterborough. As long as there is non-union labour to exploit, there will be a problem ensuring that workers' rights are protected, including their right to refuse to work on Sundays and holidays.

The provincial government has stated in several documents, notably in a background statement by the Ministry of the Solicitor General, that "the amendments to the ESA would give employees the absolute right to refuse Sunday and holiday work, guarantee a 36-hour rest period every seven days, and strengthen the role of employment standards officers in dealing with employee complaints." A quote from the media statement of the Honourable Bob Mackenzie, Minister of Labour, puts it even more strongly, "Under this new legislation, thousands of retail workers in this province will now have the absolute right to refuse Sunday work without fear of losing their jobs or facing disciplinary action."

We in the labour movement know from bitter experience that good intentions or well-written laws are no substitute for proper and effective enforcement of these laws. In a covering letter from Duncan J. MacDonald, programs co-ordinator for the Ontario Federation of Labour, dated July 24, 1991, he provides the following comments on why the proposed changes to the Employment Standards Act under Bill 115 were not dealt with in briefs by the United Food and Commercial Workers Union: "UFCW did not deal with this issue as they believe that the amendments cannot protect workers. The only protection that workers will have is if the government accepts labour's views on Bill 115."

In speaking with several local labour leaders, we received the following comments on information provided and enforcement under the Employment Standards Act: Unions in the construction field seemed satisfied, but not overly enthusiastic, with the most common comment being, "Not bad."

Others, who deal with non-union workers as well as members of their own unions, felt that enforcement of the Employment Standards Act was inconsistent, "Some cases, yes, some cases, no." On the information side there were some definite concerns expressed with the information service provided by the toll-free numbers in Toronto, "People get frustrated dealing with the system." The labour council receives several phone calls a week regarding employment standards matters, and there is often a feeling expressed that the constantly busy phone lines and long waits for basic information makes for an impersonal and inefficient service.

Other opinions on the Employment Standards Act included the comment that, "The ministry shouldn't wait to receive complaints from disgruntled employees, but in fact should be actively involved with ensuring that businesses are obeying the law."

The labour council recommends that offices to inform and enforce the provisions of the Employment Standards Act be established across Ontario, and that employment standards officers be actively engaged in ensuring that employment standards are being complied with. Such offices, of course, may be incorporated into existing offices under the Ministry of Labour to save costs.

The labour council feels that the right to refuse an assignment of work on a Sunday or a holiday can never be considered to be absolute until much stronger provisions for enforcement are in place.

To conclude, the labour council joins with the Ontario Federation of Labour and other unions to endorse the enshrinement of a common pause day for Ontario workers and their families. The proposed amendments by the provincial government, while well-intentioned, would not succeed in achieving this goal without serious reference to the recommendations for changes to the Retail Business Holidays Act from the brief presented by the United Food and Commercial Workers Union.

The labour council would also like the committee to seriously consider improving the enforcement of the Employment Standards Act as an important factor in enhancing the right of workers to refuse Sunday and holiday work. Such improvements have already occurred in the health and safety field.

The labour council, and organized labour in general, is always willing to work with the provincial government to try to find workable solutions to questions such as the creation of a common pause day. Solutions can always be found when people work together, and that is part of what trade unions are all about.

1140

Mr Sorbara: I was interested in your assessment of what happened in Peterborough during the nine months of freedom to—

Mr Shewring: Your word, not mine.

Mr Sorbara: Well, it is my word. Freedom in the sense that stores were free to open and shoppers were free to shop. I take it that your experience was that there was some initial enthusiasm, but that there was not much of a market and many stores did not open.

Mr Shewring: The enthusiasm was based on the freedom, the euphoria you might say, that everyone should have the right to shop on Sunday. That was the idea. But the practical matter is—this is objective, and on my part; this is why it is not in the brief—that Peterborough is not close to the border or other cities where they have to compete directly for business, so the actual drive, the culture you might call it, of Sunday shopping never developed here. Just putting it out there, the advertising said: "Sunday shopping. Come shop Sundays." People would come for the first weekend, the second weekend. By the third weekend it was, why bother?

Mr Sorbara: Is there anything particularly wrong with that? For example, if I am a storekeeper and I find that I do not have a hope in hell of making but two or three sales on Monday and I decide I am going to close the door on Monday and do something else with my life, read a book, visit friends, spend time with the family, there is nothing that says that is against the law. There is nothing that prohibits me from doing that.

Mr Shewring: That is right.

Mr Sorbara: Why should that be different on Sunday? Why should Peterborough not be allowed to have a free but dead Sunday market, so maybe one or two retailers bother to open their doors and the rest say: "Forget it. The good people of Peterborough are not interested in coming down here on Sunday, and I am not opening." What is wrong with that?

Mr Shewring: The only thing I was pointing out in my brief was that the people of Peterborough were not interested in coming out on Sundays.

Mr Sorbara: That is precisely the point. What is wrong with that? What is wrong with, at the same time as there not being much of a market in Peterborough, allowing the one or two storekeepers to stay open if they want to, and at the same time, as a matter of provincial law, allowing all of the storekeepers of Windsor or Sault Ste Marie or perhaps Oshawa to stay open because in those communities people really find it convenient and enjoy it. What is wrong with that?

Mr Shewring: I am not saying there is anything wrong with it. What I am saying, though, is that especially in the comments I made earlier, it is a habit people have to get into before they will say it is a right. In other words, for example, in Peterborough people did not have the experience or the pressure to shop on Sundays, and therefore they did not. It is the pressure that has caused it, the perception that cross-border shopping means you have to compete with the stores open on Sundays in the United States, or you have to compete with your neighbour city which is only 20 or 30 kilometres away in order not to lose business to that city. That is where the problem has come from, from what we have seen.

Mr Sorbara: I just want to put one more question to you.

Mr Shewring: In other words, if people get into the habit of realizing that Sunday—or any day, but in this case Sunday—as a common pause day is a good idea, so that people can have a guaranteed day off without having to have all this restrictive legislation, then there should not really be any need to open on Sunday and so people will not.

Mr Sorbara: When the government introduced this bill it said its main objective was to bring about a common pause day in Ontario. The great irony of these public hearings is that through almost three weeks now we have not heard one group, whether labour, business, individual or a consumer, say it agrees with the government, that if this bill is passed a common pause day will come about in Ontario. Do you believe that if Bill 115 is passed in this form, Ontarians generally, not just in Peterborough, will

have the new benefit of a common pause day in the province, or do you know of anyone who does believe that if Bill 115 is passed, Ontarians will have the benefit of a common pause day in Ontario?

Mr Shewring: That is a long question. My understanding is that this is a committee for the purpose of studying the bill across the province for amendments or changes or whatever, and so anyone who might come before the committee and say, "The Legislature has come up with the perfect solution in Bill 115," is not going to show up here. Why bother? They think you have already got the solution. Anyone who is going to come before a committee to talk about something like this is always going to come up with even one change which he thinks would improve the bill.

That is what we are doing here. As part of organized labour, we look over the bill, we see where we think there may be some improvements made to get closer to the goal of the common pause day, and then hopefully we achieve that goal.

Mr Sorbara: I have just one other very brief question. Does the district labour council support the notion of the right, whether it is absolute or qualified, to refuse Sunday work, on the part of industrial workers in the Peterborough area, whether they be GE or whoever they are?

Mr Shewring: I think that would be something we are going to be working towards. This is a progressive thing. You have to get people's minds set on the idea that retail businesses should not be open on Sunday so that workers can have a common pause day and everyone can have a common pause day.

Mr Sorbara: Are you going to be lobbying? Are you going to be working towards establishing that right for other industrial workers?

Mr Shewring: Yes, in the future. That is what I am saying.

Mr Carr: Thank you very much for your presentation. I noticed Mr Strano was here earlier with a presentation from Farmboy Markets, and he said he feels discouraged when he has to close yet sees all the others open around him. He lists them, the drugstores and convenience stores, and he says, "I am simply asking that my business receive the same privilege and the same rights as other businesses." What do you say to something like that? How would you reply to Mr Strano?

Mr Shewring: That is a very good point he has made. Why should he have to lose business to stores that get away with pretending they are opening for an important public purpose, yet in actual fact they are just another retail business, and they use the loophole in the act to beat their competition? If you notice what I said in my brief, instead of repeating all the things in the United Food and Commercial Workers' brief, I simply said that we endorse it. One of the things in the brief, for example, is the reduction in size of the area of drugstores so that on Sunday they would actually be selling drugs and a very limited range of products. That is the whole point of it.

From Mr Strano's point of view, I think it is an important question that has to be dealt with by this committee and by

the legislation because the perception is out there that some businesses are able to get around the common pause day laws that have been tried in the last few years, and it is not fair. He is right; it is not fair.

Mr Carr: On page 7, I notice you quoted Mr MacKenzie, the Labour minister, who of course has worked in the labour movement for many years. He said, "Under this new legislation, thousands of retail workers in this province will now have the absolute right to refuse Sunday work without fear of losing their jobs or facing disciplinary action." I take it then you feel that statement is wrong.

Mr Shewring: I feel that statement is right with regard to the written law that will be coming out, but we are asking about enforcement. We are taking the opportunity just to make a point about enforcing the Employment Standards Act in general as well as in this particular case. If you do not have the enforcement, then the law does not work. You have seen that in so many cases across the province, whether it is with regard to labour legislation, which is obviously one of our major concerns, or to any legislation.

I will give you an example. The Landlord and Tenant Act provides certain laws that have to be enforced. A clear violation of the Landlord and Tenant Act occurred in Peterborough when a landlord evicted some tenants. A landlord does not have the right to evict tenants. The landlord has to get the sheriff to evict the tenants. That is the way the law reads. So what happens? The police are called. I will not name names, but a rather high-ranking police officer in Peterborough was asked, "Do you enforce the laws of Peterborough?" He said: "Oh, yes, we enforce all the laws. We enforce every law. That's our job." Then he was asked about enforcing this law: "Oh, no, we don't enforce the Landlord and Tenant Act. Oh, no, that's a separate matter. We have to have a special paper before we're permitted to get involved with that"—or a special thing, I forget exactly what it was, but it was some excuse.

It turns out that the police were actually enforcing the Criminal Code plus the Highway Traffic Act and rather a limited set of laws. So the question of enforcement, I think, is key to what we are presenting here as far as the Employment Standards Act is concerned.

When you talk about the absolute right to refuse, you can put it in laws in gold lettering that you have the absolute right to refuse, but if people do not know about it, do not get in the habit of using it and are not backed up when they invoke their right to refuse, then it is meaningless. That is the point.

1150

Mr Carr: So what you are saying is that it is great in theory, but in practice it is not going to work.

Mr Shewring: In practice it could work, but it is going to be a long slog to do it, and we just present a modest proposal in that direction.

Mr Carr: I was interested in some of the work the CLC is doing in some of the other provinces, where Sunday shopping is now the norm. Is the CLC, through its various unions, still fighting to have those laws changed, or has it now become accepted practice in some of those

provinces, and they have gone on to other fights? Do you know? You might not know, but I just wondered.

Mr Shewring: I am afraid I do not, but it would be through the provincial and territorial federations of labour, so I would actually have to contact them to see what has been going on; but I do not have any specific knowledge of that.

Mr Morrow: Brother, thank you for that well-thought-out and well-presented brief.

Mr Shewring: Thanks.

Mr Morrow: That is a fantastic job you did.

Mr Shewring: Only till 4 this morning, brother.

Mr Morrow: I do not have a lot of questions, but I would like to know exactly how many workers in Peterborough the labour council represents.

Mr Shewring: Just over 5,500. I believe it is mentioned at the beginning of the brief. The number varies according to whether we have a recession or not, and various other things. Thanks to the federal government, I think our numbers will have to stay a little low for a while, but when it is gone perhaps they will grow a bit more.

Mr Morrow: My impression is that Sunday shopping did not actually create any jobs, but that hours and workers were really just shifted around. So instead of six, they are shifted around to seven. Can you comment on that for me?

Mr Shewring: I could not, since I do not have any direct contact with most of the people involved, other than to say that in Peterborough, given the small volumes of customers who are there, I expect that what would happen in most cases is that a full-time worker would have been part-time on, say, the Saturday and then part-time on the Sunday to cover the period. But given the small numbers involved, I do not think there could have been many or any major improvements to employment in the Peterborough area resulting from Sunday shopping. In fact, considering it only lasted two months, it certainly did not have any real long-term effect at all.

Mr Morrow: We were in Ottawa on Monday when the monsignor there made a presentation with a really good comment that Sunday is for the people. It is just a fantastic comment, and I think it rings true. This is also a quality-of-life issue, if you wish. Do you see that Sunday working would have a problem with family life as we now know it?

Mr Shewring: The way family life as we now know it has been going, I do not know if very much can save it, unfortunately, the way things have been developing in this province. But at least a strong effort should be made to try and get the message out that family life should be improved and saved if possible. Even a flawed bill such as Bill 115 is at least a gesture in that direction. I would like to see a lot of things improved in the bill, but if you do not do anything, then we are really in trouble.

Mr Morrow: Thank you very much, brother.

Mr Kormos: This has been an interesting discussion and debate: Round two, the last prolonged debate, of course, was when the Liberal government invented local

optioning. There has been a whole lot of criticism of that, similar to yours today. I am impressed by that criticism. It is a sound critique.

One of the difficulties in the debate this time around, for a whole lot of participants, is that last time people knew where the respective political parties stood. What is your understanding of where the Liberals and the Conservative Party in this province stand on this issue right now?

Mr Sorbara: On a point of order, Mr Chair: I know that Mr Kormos is geared to entertain us. The witness is competent to speak on many items and he has presented a very good submission, but he is certainly not competent to speak on behalf of the Ontario Liberal Party on these matters.

Mr Kormos: Should I repeat the question—

Mr Sorbara: The question, if it were not so stupid, would just simply be, in any event, out of order and I do not think it is appropriate.

Mr Kormos: Oh, Mr Chairman, what a pathetic effort—

Mr Sorbara: It is just silly. You do not do that. Let's give him a reasonable question.

Mr Kormos: —on the part of Mr Sorbara to short-circuit what would be a legitimate answer. I have asked this gentleman what his understanding is of the position of the Liberal Party and the Conservative Party.

Mr Sorbara: I withdraw my objection. I would be very interested in hearing the answer, sir.

The Chair: I think Mr Shewring can certainly answer the question.

Mr Shewring: Given all the fuss, all I will say, in a limited comment, is that the Liberal Party, from my understanding of the history of this province in the last few years, has tried, and has not succeeded, in doing what it intended to do, and that the Conservative Party does not know what to do.

Mr Carr: Read Mike Harris in Hansard in the debate on this topic. He spoke for half an hour. I will send you a copy.

Mr Shewring: I think it behoves all the members of the committee to try and work together on this, because I do not see that there is that big a difference in trying to deal with the question of Sunday shopping and Sunday work in the province. I do not see why the various parties cannot work together on this.

Mr Kormos: Thank you.

The Chair: You have no further questions, Mr Kormos?

Mr Kormos: I have got lots of questions, but unfortunately, Mr Sorbara would not want to answer them.

The Chair: Mr Fletcher, we have time for just one question.

Mr Fletcher: Thank you for your brief. I do realize that we are here for public hearings. We are here to listen and we are here to make a stand. People have been saying, "Will somebody please stand up and make a law that is going to work." We believe we have one.

Let me get on to what Mr Kormos was saying, because in 1986, the Conservative member for this riding, and I quote, said, "Having listened carefully to the presentations

made, our caucus has concluded that the seven-day commercial workweek is not socially desirable in Ontario, and I am pleased to share the same views." Mrs Cunningham, who ran for the leadership of the Conservative Party, also ran on the issue that Sunday shopping was her stand, and that they were against it. Mr Arnott, the member for Wellington, this year in the House stood up and said, "Yes, I'm against Sunday shopping." Yet all we have heard from the Liberals is, "We want status quo," and from the Conservatives, nothing. They have not made a stand.

Mr Carr: If you would like, I could make the same speech I made in the Legislature.

Mr Fletcher: They have not been able to come out and actually say they are either in favour of it, or anything else.

Mr Sorbara: Mr Chair, I would like to be recognized on a point of order.

Mr Kormos: It is not a point of order when the man is asking a question. He has time to ask a question.

The Chair: Mr Sorbara has the opportunity to offer a point of order any time he wishes to.

Mr Sorbara: Mr Chairman, I think the line of questioning here, both from Mr Kormos and my friend Mr Fletcher is out of order on the basis that positions in respect of the bill are being attributed to members of the Legislature even before these public hearings are completed. If you want to know my position, our party has not yet concluded its position on Bill 115. We have been trying to probe as much as possible. It is out of order for members of the Legislature to attribute positions to other members of the Legislature, and it seems to me—

The Chair: That is legitimate.

Mr Sorbara: —that Mr Fletcher and Mr Kormos are doing that, and I object to that line of questioning.

The Chair: Mr Shewring has the opportunity to come up with any hypothesis he wishes to.

Mr Fletcher: I just have to finish my question.

The Chair: We have run out of time, Mr Fletcher.

Mr Fletcher: It is my question.

The Chair: Okay.

Mr Fletcher: My question to you, sir, is, are you waiting for someone in Ontario to at least stand up and say: "This is what we think should happen. This is a law. Let's make it a law and let's get on with the business of the day"?

Mr Shewring: Yes.

Mr Fletcher: Thank you.

The Chair: Thank you, Mr Shewring. Mr Sorbara, can you make it fairly brief?

Mr Sorbara: I have a very brief point of information arising out of the questioning of the last witness. He suggested, I think, to this committee, and I think erroneously, that municipal or regional police forces are competent to enforce the Landlord and Tenant Act. As it is a statute dealing with civil law, police forces are not competent to do that.

Mr Shewring: I did not say that.

Mr Sorbara: There was a suggestion that the police were not doing their job in Peterborough. Far be it from me to defend any police force anywhere, but they are not, sir, competent to enforce the provisions of the Landlord and Tenant Act.

Mr Shewring: That actually was not related to what I stated.

Mr Carr: The only point I want to make is that anybody who would like a copy of Mr Harris's speech in the Legislature on the position of the Progressive Conservatives can come and see me.

The Chair: We have come to the end of our morning schedule.

The committee recessed at 1202.

AFTERNOON SITTING

The committee resumed at 1335.

GEORGINA BOARD OF TRADE

The Chair: Our first presenter this afternoon is Mr Joel Lipchitz from the Georgina Board of Trade. We have approximately half an hour. I would like to divide that time between your presentation and the many questions which I am sure the committee members have for you. Go ahead, sir.

Mr Lipchitz: Ladies and gentlemen, my name is Joel Lipchitz. I am a director of the Georgina Board of Trade and I am here to present the board's view of the proposed legislation.

The Georgina Board of Trade is made up of people, businesses and others who are interested in business in the town of Georgina. The board of trade is a new organization and is still in its first year of operation. We are concerned about many things, but our major concern is the quality of life within our town.

I understand you have previously heard some presentations from others connected with the town of Georgina, so I will not go into a lot of detail about the town itself, but I will tell you where it is. It is in the northern part of York region, located at the southern and eastern part of Lake Simcoe. It includes the communities of Keswick, Sutton, Jackson's Point and Pefferlaw. Since 1978, we have been a designated tourist area under the Lord's Day (Ontario) Act and the subsequent legislation.

Our experience over this time period is varied with respect to Sunday and holiday shopping. Some businesses are open Sundays and holidays, while others are not. The decision to open or close appears to be based on the owner's personal beliefs, the economics of opening the business as opposed to closing it, the type of merchandise sold, availability of staff to work and the personal needs of the owner or the manager.

Our population is made up of a very large percentage of people who actually work somewhere else. This means that they leave in the morning for Newmarket, Markham, Toronto or wherever, and they come home in the evening in time to eat supper and maybe get the kids to bed. I believe these types of residents will grow in numbers in the coming years within our community. As well, a good portion of our area has been developed as cottages. For us, this means a lot of people come for the weekend and then they leave.

In order for many of our merchants to sell to these people, they either have to stay open very late at night or do all their business on the weekend. One of the major concerns we have is getting people to shop locally.

Based on our experience, Sunday shopping has not reduced the quality of life in our community. Actually it is necessary to provide some very much needed part-time jobs and other jobs in the area.

Our understanding is that the proposed legislation would not allow blanket exemptions for businesses to stay open. Accordingly, each business or group of businesses

would have to apply to the municipality for a bylaw and spend the time and money going through a public hearing.

In our case, we are not even sure which municipality we would have to apply to. Would it be the regional municipality of York or would it be the town of Georgina? Our town government is already tied up with what we consider to be much more urgent concerns. We really do not want them distracted by having to deal with this issue as well.

One of the common complaints about any government is red tape. This legislation would just increase the red tape for merchants everywhere.

We agree that no one should be forced to work seven days a week. We also agree that everybody should have the right not work on his pause day. However, we do not agree that someone should not have the right to work if he wants to. We believe people should have the right to buy goods or services at their discretion, if merchants are willing to provide them.

The object of this legislation is to provide a common pause day for all residents of the province. We believe this legislation will not accomplish that objective. There are too many people employed in industries and businesses that are not limited by this type of legislation.

In conclusion, we feel the proposed legislation will not accomplish the stated objective. It will create more bureaucracy at a time when we need to streamline how we do business in order to compete. It could result in time-consuming and expensive challenges for merchants from any self-interest group. It could also limit the number of some badly needed jobs. As proven by our own experience over the last 14 years, we think it is completely unnecessary.

The Chair: Thank you very much, sir. There is a point of clarification from the parliamentary assistant to the Solicitor General.

Mr Mills: Before we get into discussion and asking questions, I think it is quite important for me to draw the committee's attention to the paragraph under the word "bureaucracy." I would ask at this time, with the permission of the Chair, the legal representative from the Solicitor General's office just to go over what you are saying by "blanket exemptions." I think there is perhaps a little bit of confusion. With your permission, Mr Chair, we will ask the legal representatives to explain.

Ms Scarfone: I am Janet Scarfone from the Ministry of the Solicitor General, legal branch.

Section 4.2 of the bill allows a municipality, once the tourism criteria have been met, to apply a bylaw to "one or more retail business establishments or to one or more classes of retail business establishments." As well, there is a provision in clause (b) of that section that a bylaw may apply to all or any part or parts of a municipality. As well, with respect to your question on regional municipalities, if there is a regional municipality, the application goes to the regional municipality.

Mr Sorbara: I just want to say welcome to a York region representative. It is encouraging that you have travelled

to Peterborough. We did hear from the mayor of Georgina, and his presentation was not inconsistent with your own, but I am glad to hear from the board of trade as well.

I want to go back to the opening part of your submission and the experience in Georgina in respect of Sunday shopping. Is Georgina currently designated as a tourist area for the purposes of any legislation whatever?

Mr Lipchitz: Yes, it is.

Mr Sorbara: So under the current law, where municipalities can designate tourist areas or use the municipal option to open stores, any store that wishes to stay open on Sunday in Georgina can?

Mr Lipchitz: That is correct.

Mr Sorbara: Without distinction as to whether or not it is a tourist destination?

Mr Lipchitz: That is correct, yes.

Mr Sorbara: Say, for example, if there is a big A&P food store there, or a Miracle Food Mart, that store can stay open notwithstanding its size, notwithstanding that most of its customers just live around the corner.

Mr Lipchitz: Yes. Let me give you an example. There is an IGA store owner in Sutton who opts not to open on Sunday for his own religious beliefs, and yet there is an IGA store in Keswick which does stay open. There is also an A&P which is open. So the answer to your question is yes.

Mr Sorbara: How long has Georgina benefited from this exemption or this provision?

Mr Lipchitz: Since 1978.

Mr Sorbara: In your own experience, has friction been created in the community? Is there a sense that this broad discretion to open or close has somehow detracted from the quality of life in Georgina?

Mr Lipchitz: No, there is not.

Mr Sorbara: I appreciate that there are lots of tourists. When I say "tourist" I mean people who have come from their first homes—say, in Mississauga—to a cottage on the shores of Lake Simcoe, who virtually have to have these stores open because they are stocking up on food for a weekend at the cottage. Is that not the case?

Mr Lipchitz: Their other option, of course, is to buy it wherever they are before they leave for the weekend.

Mr Sorbara: What about the local residents? They are not tourists when they go to the IGA on Sunday, the IGA that is open. Are they concerned? Would they prefer that these stores be closed on Sunday? They are not tourists.

Mr Lipchitz: No, they are not tourists. My experience says that in fact they want the stores to be open. A lot of them are involved in the hospitality industry and they work odd hours or they are involved in other stores themselves, so they need the opportunity to be able to shop and do other things on Sundays.

Mr Sorbara: Does a typical storekeeper make a distinction between the tourist traffic and the non-tourist traffic?

Mr Lipchitz: No.

Mr Sorbara: Does he encourage the tourists to come into the store and try to discourage the non-tourists so that they can pause commonly for a day?

Mr Lipchitz: No, they do not.

Mr Sorbara: Has there been a deterioration in church attendance during that period?

Mr Lipchitz: There has been, but my impression is that the local church people are not concerned about it any more than any other area. It is not related to the Sunday shopping issue itself.

Mr Sorbara: Without any disrespect whatever, in the York region context, the Georgina economy is seen as somewhat more fragile than, say, the Markham economy or the economy of the city of Vaughan. Would that be a fair statement?

Mr Lipchitz: Absolutely. We are no doubt, if I can use the word, the poorest of the municipalities within York region.

Mr Sorbara: Has the ability to have the freedom to open or not open, to shop or not shop on Sunday in Georgina been a help or a hindrance in the economic development of the community?

Mr Lipchitz: I think it has been a help. Because of a large number of factors, we have not enjoyed some of the benefits of the expansion in the last economic cycle that some of the southern members of York region enjoyed. My personal belief is the next cycle of expansion is going to move up to our area and we will grow quite a bit. We have grown quite a bit over the last five years. So I think it has been a help rather than a hindrance.

There are a lot of problems that we have, but one of the problems is that we do not have a lot of industry. As a matter of fact, a couple of our larger employers have either shut down or drastically reduced their labour force, from 250 to 25, working a two-day week type of thing. So jobs for the local people are very much dependent right now on tourism, hospitality and that kind of thing. To deny them the ability to open on Sunday would in fact lose jobs which are very important to our young people. Our young people, our teenagers, want to go to college, want to go to university and need a place where they can work part-time and still go to school.

Mr Sorbara: Is it safe to say that among business generally in Georgina the most common complaint is the administrative burden that all levels of government put on them, whether through taxes or filing forms or whatever, and that for some businesses an additional administrative burden to go through a complicated application procedure in order to keep their store open on what for some would be the busiest day could be the straw that broke the camel's back?

Mr Lipchitz: In my opinion, absolutely.

Mr Carr: I noticed that on page 3 you talk about, "One of the major concerns we have is getting people to shop locally." I was wondering if you could comment on the situation which may arise where certain municipalities decide to open and others do not and what it would do to your area if, for whatever reason, you did not get the tourist exemption for yourselves and your next door neighbours in another municipality did. What would you see happening?

Mr Lipchitz: Personally I think it would be an absolute disaster for most of the stores in our area. By the way,

I am a chartered accountant. It is what I do, so I see and talk to a lot of businesses and of course see a lot of financial results. I go into a store or a restaurant and I say, "How has it been this year compared to last year?" and they say, "Our sales are only down 10% or 15% from the year before and we think we are doing really well because we're still here." That is the kind of environment a lot of our stores are in. Their backs are really up against the wall. If they lost any additional revenues, it would cause even more serious problems.

Mr Carr: One of the concerns that has been voiced is the fact that with the interpretation by municipalities, the politicians will make the interpretation, and that as a result, that is where some of the differences will come, because if you ask different municipal politicians across the province to interpret something, there are going to be all sorts of different ideas come out. Is that then one of the concerns you have, that it is down at the municipal level?

Mr Lipchitz: Absolutely. York region is not headquartered in Georgina. If we want to do anything within York region, that means we have to travel out of our local municipality. For instance, Newmarket or Markham are much larger communities than ours. If Newmarket does not allow Sunday shopping and we did allow Sunday shopping, and for some reason we were able to attract a certain amount of business from Newmarket, I wonder how the region itself would react to that. I feel uncomfortable personally with York region, for instance, making the decision, for just the simple reason of the additional costs that would be involved and less control I feel we would have locally over what we want to do or not do.

Mr Carr: One of the reasons the government brought the bill in was because it said it wanted to protect the retail workers. As you know, there are other segments of the population that work on Sunday and would not be covered by this. I was wondering if your particular group could give us an indication of how it sees it working so that somebody does not get forced to work. We heard from the labour council, which said even the laws that we have with this bill would not be tough enough and that they would still be forced to. I was wondering if you could comment on how you see that working so that people are not forced to work on Sundays.

Mr Lipchitz: I think the sections of the bill that deal with that right now are a very good attempt. I am not a lawyer, so I cannot really talk in those terms. Generally speaking, I think if the legislation is there the Ministry of Labour is probably the best enforcement vehicle. If the Ontario Labour Relations Board feels it can investigate a situation and feels that it is unfair based on the legislation that has been presented, that is the best vehicle available and it is already operating. I think that would be the best way of implementing it.

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Mr Fletcher: Thank you for your presentation. Just a couple of things: You have said in your brief, "We agree that everybody should have the right not to work on his pause day," and then in the next sentence, "However, we do not agree that someone should not have the right to

work if he wants to." The amendment to the Employment Standards Act is saying that the act would assure retail workers of a common pause day and ensure that all Sunday retail work is voluntary. In other words, it is not saying you cannot work on Sunday; it is saying that if you are asked to work, you have the right to say no, but if you want to work you have the right to say yes.

Mr Lipchitz: The problem I see is that I may want to work, but the stores are closed, so where do I go to work?

Mr Fletcher: That comes under the tourist exemption and that is something you are going to have to hit with your municipal council.

Mr Lipchitz: That is where we see the problem. For instance, the Premier has been quoted in the newspaper—I do not know him personally—on many occasions saying that blanket exemptions will not be available to a community, which implies to me there is going to be a process whereby a business or a type of business or a class of business is going to have to go through a lengthy procedure to obtain the right to open on these days. A lot of questions come to my mind like, what happens in the interim? How do we implement it? How much advance notice are businesses going to get? It is just the additional cost.

Businesses, especially in our area, have enough headaches right now to deal with. A lot of these guys have their houses mortgaged beyond what they are actually worth and the money has gone into their business. They stand to lose a lot. To get them to come up with additional funds to maintain a right they already have I do not think is fair, nor do I think it is desirable.

Mr Fletcher: The other point I am going to bring up is that during the election campaign we campaigned as New Democrats on the fact that we would ensure a common pause day for retail workers. It was mentioned in the throne speech and we are carrying through on an election promise. I know you do not see that very often from many governments, but we are committed to it. We have been committed to it from day one and people knew that when they voted for us. It is something we have to uphold.

Mr Lipchitz: My only comment on that is that with every political campaign and with every political party there is good and bad. I would not agree with everything you wanted to do, but hopefully I would not disagree with everything either. This is one area where we disagree.

Mr Fletcher: I think people have said we have backtracked enough already.

Mr Lipchitz: That might be true, but I think it is important, with a lot of the changes that have been brought about through international trade, formation of new trading partners, the free trade agreement, the GST and all the other things we have been subjected to. There is a restructuring going on within the economy in Ontario and I think we are going to be drastically affected, even more than we have seen today.

I think we have to ensure as a province that whatever the industry and wherever our future jobs are going to come from, we have to make it as easy as possible for entrepreneurs, for big business, for inventors to come to our province and develop those ideas. I think that every

time we throw up a roadblock and make it that much more difficult, we lose and we are going to lose in the long run.

Mr Fletcher: The point about roadblocks is interesting, the roadblocks that have been put up by the federal government. There have been some; every government does it, I guess. Was there an opportunity for you as a business person to approach the federal government and say, "What are you putting up these roadblocks for?"

Mr Lipchitz: There may or may not have been, but I am here today to say exactly the same thing.

Mr Fletcher: You do not know if you did not.

Mr Lipchitz: I do not know. I was not part of the process at that time.

Mr Fletcher: Okay, that is fair. Thanks for your comments.

Mr Klopp: My question was answered.

Mr Fletcher: On a point of order, Mr Chair: Mr Sorbara was asking earlier for a clarification from legal counsel from Tourism, as far as the discrepancy in the figures is concerned. Would you like that now? He has them.

Mr Williams: My name is Frank Williams. I am counsel with the legal branch at the Ministry of Tourism and Recreation. Let me just preface my remarks by saying that I will try to get something in print for the committee as soon as I can. From what information I have from people I have spoken to this morning, part of the problem in the difference in the statistics seems to be that we are comparing apples and oranges. From my understanding, the Motels Ontario statistics are based on a revenue type of basis, whereas the statistics from the ministry are based on a per-person-night type of basis, which does not necessarily reflect revenue. We are comparing two different things. I think it is the old story. If you have statistics and surveys, you have to make sure you are on an equal playing ground and I think that is part of the problem.

The other thing I am not sure about, and this is what I would like to get back to the committee on, is just how Motels Ontario is basing its statistics, for what time period. I would like to find that out in a little more detail and I will get back to the committee on that as well; likewise, just how the statistics the member brought forth to the committee just before lunch are based and what time period those are based on as well, so that we are comparing two different things and we know exactly how the two relate.

The one other issue to take into consideration is that Motels Ontario, although it may represent a fair portion of motels and hotels in Ontario, can only speak for its membership. The statistics it is bringing forth are only statistics for its members. They do not represent some of the other types of attractions and accommodation that are referred to in the Ministry of Tourism and Recreation statistics which, for example, include resorts and lodges, which are not included in the Motels Ontario statistics. That could account for a significant difference, for example, with accommodation in the north.

At this point I will leave it at that and get back to the committee when I have some more information, unless there are some questions.

Mr Sorbara: Inasmuch as I raised the point, let me begin by thanking Frank Williams for that information. Data that is as accurate and comprehensive as possible, available to the ministry or that the ministry can aggregate during the course of these hearings, would be greatly appreciated by the committee. I would be surprised if occupancy rates at lodges would account for the discrepancy, because by and large people stay at motels often on their way to lodges. My own understanding is that the downward trend has affected all sectors.

I do take the point that the Motels Ontario association does not speak for anyone but its members and I think that is an important addition to the debate, but the ministry has the capacity to get a very good fix on the state of the industry. That is going to be very helpful to us in our deliberations and when that information is available, I ask that it be forwarded to the committee.

1400

TEDDINGTON LTD

The Chair: We now have a presentation from Teddington Ltd; Mr Brian Magee, Mr Wayne Fairbrother, Ms Rae Christie and Mr Allan Lunenfeld.

Mr Magee: Mr Chairman, could I just use that table in the corner? We have a few things we would like to set up.

The Chair: Certainly. During the course of your presentation, remember to speak into the mike and please identify yourself when you first speak for the purposes of our recording. As you know, we have approximately half an hour, which can be divided up as you wish. Please commence when you feel free.

While we are waiting for the material to be established on the podium, are there people we need to check out if you have not already? No? Please go ahead.

Mr Magee: My name is Brian Magee and I am the president of Teddington Ltd, which is proposing to construct a tourist-oriented development in the central business district of Belleville, Ontario. We have a site map there which shows Belleville having a somewhat greater influence than might otherwise be the case.

With me this afternoon are Ms Rae Christie, who is holding up the map, Mr Lunenfeld, and joining us is Mr Wayne Fairbrother of the firm of Templeman, Brady. Mr Fairbrother, in addition to his private sector practice, is legal counsel to many urban and rural municipalities in eastern Ontario. At our request, Mr Fairbrother has reviewed the proposed amendments and at the conclusion of my presentation will outline certain legal considerations that arise.

In order to fully understand the nature of the problems which the proposed legislation presents to us, I would like to describe briefly for you our proposed development in Belleville. The city of Belleville is approximately 180 kilometres east of Toronto and is on the north shore of the Bay of Quinte, which is that little blue area between the mainland and Prince Edward county. The Bay of Quinte is widely used for recreational boating and fishing. The entrance to the Trent waterway system and the Murray Canal is located 18 kilometres to the west, and the southerly entrance to the Rideau Canal system is located to the east

of the city of Kingston. As such, Belleville is ideally located for boating tourism. In addition to the foregoing, the city of Belleville is in close proximity to several outstanding provincial parks, namely, Presqu'île, Sandbanks, North Beach and Lake on the Mountain.

Belleville is also easily accessible by land. The city enjoys extensive frontage along the 401 and benefits from a scenic vehicular link with Prince Edward county to the south via the Norris-Whitney bridge, which comes out of the downtown area right into Prince Edward county. In particular, our site within the city of Belleville is strategically located in terms of its visibility and accessibility by land or water and in terms of its proximity to the central business district of the city. That aerial photograph, which is the one beside it, should be able to point that out.

If you will flip that thing over, that is not, clearly, all of Belleville, but that is the point at which the Moira River empties into the Bay of Quinte. In the foreground you can see the Victoria Harbour and the Anchorage, which is a condominium building farther south from it. The first bridge crossing is Highway 2, and then strangely enough the next bridge is called Bridge Street immediately north.

Our site is this roughly four-block area right here. This little marina is now somewhat larger; this photograph is a couple of years old, and that is Morch's Marina which now extends down into Zwick Island east, which is a fairly major city park. It is right on Highway 2. We have about 700 or 800 feet of frontage along the Moira River and we overlook the Bay of Quinte, so it is really very well located relative to the city, the highway and the water. The downtown business district is on the east side of the river, basically running from Highway 2, which is the first bridge, up to the turning of the river near the top of the photograph.

This site was previously used as a manufacturing facility, which was abandoned prior to our acquisition. The site has been cleared, with the exception of a historic house which we found on the site in preparation for the development. Since acquiring the site we have had extensive discussions with a wide variety of representative groups in the city which reinforced our impression that there was a substantial tourist market available to the city that was not being served by the existing facilities within Belleville.

We have taken this considerable input into account in developing our proposal. During the time these discussions took place, the city of Belleville commissioned several studies to identify the opportunities available to the city in the tourist market.

I wish to briefly refer to three studies of relevance. The first was entitled the Bayfront Planning Study, carried out by M. M. Dillon Ltd. This report quantified for the first time the actual number and size of the tourist market for the Belleville area. The study identified a potential tourist market of approximately a million people stopping within a 20-mile radius. I might add that that number is only a land-based tourist market and does not include those arriving by water, and there are tens of thousands of those.

Shortly after that report came out the city had a second cultural master plan which was prepared by Lord Cultural Resources Planning and Management, and this report identified a need for artistic and craft sales and display areas

within the city. At the moment a lot of local artists and artisans are displaying their goods for sale in the library and in the hospital corridors, and there just are not facilities available for it. It also highlighted the need for additional performance areas for the performing arts and suggested that such areas would be best located in or near the central business district.

The third study, which was more of an economic study, was an economic development strategy prepared by Stephen Chait Consultants Ltd for the city, which concluded, "Tourism is a fundamental part of the wellbeing of the Quinte area," yet the report states that, "The tourism market remains in its infancy in Belleville." As a result, the report recommended that a tourism strategy be developed for the city.

With the encouragement of various interest groups and the findings of the aforementioned studies, we proceeded to further redefine our development. In response to the requests of the Quinte Arts Council we have allocated significant space in the development for arts, crafts, antiques and one-of-a-kind items, which we hope will attract those tourists who visit the area in search of these types of items.

Let me just get you a floor plan. That is maybe a better way to do it.

Mr Sorbara: Just to interrupt for a moment, is that the artist's concept of the full development?

Mr Magee: That is correct, yes.

Mr Sorbara: The site is how large?

Mr Magee: Slightly more than seven acres. It is about four relatively normal city blocks, roughly.

In response to the needs provided by the Quinte Arts Council, we have put in both places in the centre of the project on the second floor—on either side of the stage area there—arts, crafts, one-of-a-kind, antiques, etc, because our research indicated that a lot of people who were tourists coming basically to the south Hastings-Prince Edward county area were coming in search of those kinds of goods. We wanted to create a critical mass that would allow for this to be a stop they would want to make in order to feel that they had covered every available opportunity while they were looking for those things.

You can see the second-floor balcony area which is over our central courtyard, which is now a covered open-air situation. We have put in an open-air performance stage in the centre of the project with a seating capacity of about 2,000; it maybe has slightly more than that. We had to do it in this arrangement to split it, because there are some venues and some performances in which if we put people into a 2,000-seat situation it would look half empty. We want the full range of things. There are some things which are only going to draw 600 or 700 people, and under those circumstances we just would not open up the balcony and we would sell everything on the ground floor.

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When that central square is not being used for that particular function it would be available for a wide range of displays and demonstrations. For the wintertime we have proposed an artificial ice surface in the square for recreational skating and other attractions.

In addition to the foregoing, we have retained and restored on our property a historically significant building known as the Billa Flint House. We were fortunate enough to receive Ministry of Culture and Communications funding to do the restoration on that. The Billa Flint House is that building there. What we have done is we have tried to take some of the architectural features of that and blend them into the balance of the project.

The Chair: Mr Magee, we cannot hear you when you move away from the microphone. You can either move the microphone closer to you where you are standing or—

Mr Magee: Okay, let me just sit here. It is just a small thing, but for example, the chimney pots that show up here have been incorporated all the way around in these buildings that follow around and back of the site, and again you can see evidence of those things there. It is a small point, but it in fact set the tone for the entire project.

In summary, what we started almost three years ago is a central business district urban redevelopment designed to create a revitalization and refocusing of the whole downtown area, based on expanding the existing market by tapping into this identified tourist potential of about a million people.

We are presently at the stage where we are ready to commence tenant negotiations for the project. Given the tourist-oriented nature of the proposed development, it has always been our intention to seek the appropriate exemption under the applicable legislation to permit the development to be open on holidays. However, prior to entering into any leasing arrangements, we want to ensure we are in a position to advise potential tenants and their employees of the hours of operation in order that they are aware of and satisfied with the hours before agreeing to locate within the project.

In June 1991 a bill was introduced to amend the Retail Business Holidays Act. Naturally we were interested in reviewing the draft legislation to determine its effect on our proposed development.

First, we were very pleased to note that our project falls within many of the categories set out in the proposed regulations, namely, the historical content; the provision of cultural or ethnic attractions; a concentration of hospitality services; a unified concept or theme; and fairs, festivals and other special events and attractions will be held in the area. We were also pleased to note that the proposed legislation is quite clear that retail business establishments may be permitted by municipalities "to be open on holidays for the maintenance or development of tourism."

However, the problem, from our standpoint, with Bill 115 and the regulations is that as they are presently worded, they do not allow proposed developments—that is, which are to be built for the purposes of developing tourism—to seek an exemption under the act. This creates a major hardship in our case since we cannot go out and attract the types of tenants we want for our project until we know whether or not we will be granted permission to be open on holidays, and yet we cannot seek an exemption under the provisions of Bill 115 unless we have an existing development with existing tenants carrying on retail businesses. Thus the

proposed regulation creates a serious catch-22 situation for us. Mr Fairbrother, on my right, will address this point in further detail in a moment.

The other major area of concern with the legislation is the requirement that the applicant obtain the approval of the chamber of commerce or other similar organization. In our respectful submission, this is an inappropriate and unwarranted requirement. The chamber of commerce is a non-elected body which is not accountable to the general public. It is inappropriate to give them this veto power. Further, in the case where the project is to be built, the chamber of commerce represents competitors of new development. It is indeed inappropriate and unfair to give the competition the final say as to whether or not a new development proposal will proceed. The final decision must lie with the elected council, which is elected by the general public and is responsible to the general public.

At this point I would like to turn the floor over to Mr Fairbrother to elaborate from a legal perspective on some of the concerns I have raised and to suggest a manner in which these concerns could be addressed.

Mr Fairbrother: Just before I begin, are there any other renderings or diagrams you wanted to show? My portion of the presentation is less flashy. I do not have anything to refer to, and you brought all these along.

Mr Sorbara: You are the lawyer.

Mr Poirier: Yes, a lawyer's presentation less flashy?

Mr Fairbrother: There is no opportunity for cross-examination here. That is right.

Mr Magee: Those are just floor plans. That is the overall. This is one of the streets at the south boundary of the development and we have tried to build it at a scale and a massing which is consistent. That is the south boundary of what we are doing and, as I say, the existing downtown is typically two to four storeys high, with a few bumps of five, six, seven. In fact you get at the north end of it some 10- and 12-storey buildings, but what we try to do is to both keep in mind the existing as-built form in terms of its massing and its general architectural characters, but at the same time try and relate it somewhat more to the waterfront. Whether we have succeeded or not I think is a very subjective conclusion, but that is the intent of what we are trying to do.

The other drawing we have shows a small courtyard which is immediately north. This is a more detailed picture of the north wall of the Billa Flint House and shows a somewhat smaller and more passive courtyard which is immediately north of it and leads into the project, but again, with the turret elements and the mansard roofs and dormers, etc, we have tried to relate the architecture to the balance of the downtown area, and we have little pedestrian bridges crossing at the second floor and you can see the detail being picked up consistently with the gable ends on the buildings.

This is an artist's rendering of the covered stage. It is a little bit dated because we have changed the plan slightly. You will see that the roof covering did not come back over the stage and we have decided that it is silly to be running out canvas, which you can see elements of here, every

time we wanted to do it. So what it means is it is open air and it is about 50 or 60 feet in the air, but it gives you the idea of the ground floor for smaller and then the full benefit, including the balcony, for the larger performances we hope to get in there. At other times it would be industrial-commercial, horticultural, large antiques, that sort of special programming. That is the last of the pictures.

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Mr Fairbrother: In the time that remains I will attempt to be brief. I have been asked by Mr Magee to look at the legal aspects of the proposed legislation as it relates to this particular project, so my comments are relatively narrow in focus and not broad-based, as I am sure some of the comments and suggestions that have been put forward to this committee have been.

I have attached at the back, although I am sure you are intimately familiar with the proposed legislation, the regulations and the explanatory notes. I highlighted in there some of the sections that I would be focusing on. I do not propose to take you back and forth and flip you through that. Everything is set out in the written submission you have and later on there will be an opportunity, I suppose, to examine it, through questions and so forth.

I wanted to begin by noting that in the explanatory notes to the proposed legislation, it is stated that part I of the bill, among other things, establishes a clear principle; that is, that municipalities should only use this exemption power "to maintain or develop tourism." So the focus has been substantially narrowed. As Mr Magee has just explained, the interest of Teddington Ltd in this matter is with the development of tourism, because we are starting with a vacant parcel of land.

This principle of developing tourism is taken from the explanatory notes and is found in the bill itself at subsection 4(1), where it specifically states that. However, it is our submission that in the sections that follow and in the regulations that are to implement the act, only existing retail businesses are given the authority to apply under the act. Unless the proposed act and regulations are amended, companies such as Teddington which seek to develop and construct tourist-oriented developments are precluded from seeking an exemption under the act until the development has been constructed and tenants are in place.

As Mr Magee mentioned, and I want to reiterate, we consider that to be a significant obstacle in our attempts to fairly negotiate with tenants. We believe it would be far better to sit down with the tenant up front and say, "We have applied for and hopefully have obtained an exemption. These are our hours. Are they or are they not acceptable to you and your employees?" as opposed to the converse where they are in, and then the next thing you know the landlord, if you will, is bringing this application, with or perhaps without the consent of the tenants.

To specifically identify the concern in the draft legislation for your future reference, I would direct your attention to subsection 4(4) of the act. Subsection 4(4) states, "Subject to the regulations," and so on, the application will be from "persons carrying on retail business" or by an "association...representing people who carry on retail business."

The emphasis here is that the applicant must be carrying on the retail business. It is on that basis that I suggest to you there is no allowance for a prospective business to submit the application.

As I pointed out in the written submission, I believe this could be easily addressed by amending subsection 4(4). On page 9 of the written submission, I have set out in writing that this could simply be amended to read, "one or more persons carrying on or who propose to carry on retail business." Similarly, the "application of an association...representing persons who carry on or propose to carry on." I will leave those suggestions with you.

I would ask you to look at subsection 1(2) of the regulations. You will recall that is where the six criteria are set out, of which two have to be satisfied by the applicant. You will see there is again a slant towards existing businesses: "The area has historical or natural attractions"; "The area has cultural or ethnic attractions." Again, without going through each and every one of those, I have given you an example at the bottom of page 9 of our paper which says that in the case of paragraph 2, "The area has cultural or ethnic attractions," if it were to say, "The area has or in the case of new development or redevelopment will have as part of the redevelopment or the new development cultural or ethnic attractions," that would afford applicants such as Teddington Ltd an opportunity to meet the legislation or at least to put it to the test for the local council to decide.

There is a further, somewhat related small change, but a potentially significant one, which I make reference to at page 10 of the paper. That relates to paragraph 3(1)1 of the regulations. It may not be necessary to turn to that. That is the section of the regulations that sets out what is to be in the content of the application itself. It is clear from the wording that we have just looked at in the proposed act that an application can be filed by an individual retail business establishment or by several retail business establishments. I might add that we agree with that approach. We think ultimately it should simplify the application process for the municipality to be able to deal with hopefully a combination of applications as opposed to requiring each and every individual establishment to file a separate application.

In the regulation that I mentioned, paragraph 3(1)1, it says presently that the application is to include, "A description of the geographic area or the retail business establishment," singular. Again, since the legislation itself contemplates that there could be more than one, it should say, as I have pointed out on page 10, "establishment or establishments." I think that would be consistent with the overall intent.

Finally, I would simply like to support from my own personal legal perspective the concern that was raised by Mr Magee with respect to the proposal that the chamber of commerce or a similar organization must submit a letter of support. That is found in subsection 3(1) itself. The way I have read the regulation, it says, "An application for exemption...shall contain the following," and it sets out four things. So "shall" is mandatory; it must contain those. If you fail to submit a letter from the chamber of commerce, you fail to meet the test.

I agree with Mr Magee that this has given, in essence, a veto power to the chamber of commerce. In my respectful submission, it has always been a fundamental proposition of legislation that decision-makers must be accountable for their decisions in some fashion, but a chamber is not. It is not an elected body; it is not elected by the general public.

I personally have no difficulty with the fact that the chamber's position on a matter is a factor that could be given weight by the council that makes the final decision. Perhaps they could be encouraged to submit a position on the application, but the final decision on the matter should be left in the hands of the individual council, which is accountable for its decision. It would be my request that this section, being paragraph 3(1)4 of the regulations, be deleted as it presently stands.

Those conclude my submissions on the proposed legislation. As I indicated, I wanted to be fairly narrow in focus. We are just trying to look at this. This is a proposal, as you can see and as Mr Magee indicated, that is virtually ready to go to tenants now. Should this legislation be proclaimed, hypothetically tomorrow, we feel that as it presently stands, although we feel we meet the intent of the legislation, we would have difficulty in meeting the exact words.

I would just ask Mr Magee to briefly conclude and then hopefully there is an opportunity for some questions.

Mr Magee: As we have noted, the stated intention of the proposed amendments to the Retail Business Holidays Act is to allow municipalities to maintain and develop tourism. The fundamental concept underlying our project is the development of tourism, thereby fulfilling a documented need within the city of Belleville.

Our project has been conceived and designed in a deliberate and methodical fashion, taking into account input from and the needs of the city of Belleville itself, the central business district, local interest groups, historical interests, the Quinte Arts Council, etc. The result is a project that will be aimed directly at the tourist market. In fact, we will be able to satisfy the criteria set out in the regulations to the proposed legislation, yet as the legislation stands before us, we cannot build the project as we have proposed it. This undermines the planning and development process we have undertaken to date and seriously undermines the success of our proposal.

For all of these reasons, we respectfully request that you recommend to the Legislature the changes we have set out in our written submission. We will look forward to receiving a copy of your recommendations. If there are any questions that you have, we would be happy to answer them.

The Chair: Thank you. First, a clarification from the parliamentary assistant.

Mr Mills: Concerning page 11, the final decision on the exemption does in fact rest with the elected council. You say it must; it does.

Mr Fairbrother: If I may respond to that, my concern is that the regulations state that an application "shall contain." I agree with this gentleman's interpretation, but to analogize to the Blue Jays, faltering as they are, you do not even get up to bat if you do not have those four criteria. That is our concern.

Mr Mills: Okay, I just wanted to clear that.

Mr Sorbara: I would just move, Mr Chairman, that we extend the time for these witnesses by about seven minutes, to give each of the parties an opportunity to ask a question or two.

The Chair: Given our tight schedule, is that acceptable to the other caucuses?

Mr Kormos: I have no quarrel.

Mr Carr: Yes.

Mr Sorbara: Very quickly, let me congratulate you on your proposal. We have been hearing so much gloom and doom—the problems in the retail industry, the problems in the tourism industry, the Jays have lost six in a row—and you are the first optimists who have come before this committee. Let me congratulate you on the project.

I think, by the way, that the problem with the chamber is going to be resolved. I do not think the Legislature could tolerate putting a quasi-judicial decision-making capacity on a voluntary body, and frankly, I think it was just a mistake.

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Let me tell you right off that I think I support, and I think I can convince my Liberal colleagues to support, the proposed amendments dealing with proposed developments. I hope we can convince the government of that. If we can do nothing else in these public hearings, this submission represents a positive change that we can make, although there is, I should tell you, some mood to always leave it with the existing business so that the existing business person can have the freedom to take a common pause. But I would support your proposals.

Let me just ask a question, though, and this gets into the broader question. I am sorry to drag you into it, but you are developing in Belleville and it would be important to hear your views. There will be a number of businesses in the area which are going to be detrimentally affected because you are going to draw customers, you are going to compete with those businesses. Many of those businesses are not going to qualify as tourist locations and therefore will not be able to compete with you on Sundays. How fair do you think that is? It is good for you.

Mr Magee: Mr Chairman, could we extend the meeting by about another 30 minutes? Let me answer it in two ways, if I could. We are at the point where we have zoning. We are, frankly, ready to go. The question you have asked, if I could turn it slightly, is this: There is, by all of the studies that have been done, a huge market which the current merchants in Belleville are clearly not taking advantage of. It is our contention that by allowing us to—let me go back one step. We are going to build it and it is going to be about 250,000 gross feet by the time we are finished, with stages and everything else. If we do not expand the market, what is going to happen is that we are going to detrimentally hurt those existing retailers who are there. That is one of the reasons we have delayed, in anticipation of being able to at least make application for tourism exemption.

We have geared it towards tourism, but if the market is not expanded, regardless of whether or not we are allowed to be open on holidays—we are the new kids. We have the new building, the new look, the proper tenant mix, the

proper parking, the special promotions and stages and skating rinks and everything under the sun and we are going to do a lot of damage to existing retailers.

Belleville has a primary market of 40,000 people. A million people is 25 times the population of Belleville. It is our hope that by going after tourism and putting our focus in that direction, the impact of our entry into that market is going to be significantly reduced and that over time, if we are successful in attracting a significant number of those people, there is going to be a significant spillover effect to the service industries: the hotels, the restaurants, the gas stations and everybody else who is going to benefit from the attraction of those people. So rather than hurting them if we get the tourism exemption, it would be my position that we are going to significantly help them. I think it will do serious damage if we do not.

Mr Carr: Thank you very much for a fine presentation. I want to say that your presentation helped in light of new proposed developments that I think will be taken into consideration.

I agree with Greg in that I think probably the chamber clause will be taken out. As I have said to the other chambers, I will be pushing for that, because quite frankly they do not want it either, if you have followed the debate. They said, "Thanks, but no thanks," and so on, so I think that will be one that will probably also come out.

I also want to say, as Mr Sorbara did, that I think you can count on my part in getting some of the amendments in there for proposed developments. So you have two out of three. Unfortunately, the last one is the one that counts because they have the numbers on there. I did want to thank you for that.

The question I had relates to what would happen if in fact your project did not get the tourist exemption, for whatever reason, because as you know this is one hurdle. If you get all this, you could go to the municipality and it would say no. I just wondered what your thoughts are on what it would do to the whole cost structure you are looking at and what you feel would happen with the tenants, whether you would have to then lower the price, what are you looking at if this does not go through.

Mr Magee: It is a good question, and it is clearly something we thought about. If we do not get it, it is not that it is not going to be built. It will be built. It would not be built, for example, in the same form or with the same tenant layout.

We have a couple of big structures which at the moment are unidentified. For example, we had Price Waterhouse do a study and it said, "Look, the 401 corridor is the place where hotels go." Most of those hotels at the moment, I think something in the order of 47% of them, are occupied by commercial travellers. You need the tourism to justify a hotel in the location on Highway 2, because the business traveller is after convenience rather than look. If we did not get it and we did not attract the tourists, an eight- or nine-storey building would suddenly become an office building or a condominium building as opposed to a hotel.

It is that tradeoff between tourist-oriented tenancies. For example, we now have arts and crafts and antiques and

one of a kind. I think there is something in the order of 15,000 or 16,000 feet that is allocated towards that. If we were not able to be open to service that market on the days that we perceive the market is there, we would probably reallocate that space and put it in fashion or service or something that was more geared to the resident market as opposed to the tourist.

The project will still go ahead, but the thrust and the intent of it—frankly, and I would not suggest you know this, but there is not another location in the greater Belleville area that is as good as that for this specific use and we would like to do it. As I mentioned to Mr Sorbara's earlier question, I really think we would do a lot of damage to the downtown. It may be wishful thinking, but I really do think that we are a better product than the existing downtown, and I would rather expand the market than compete with them and cut up an existing pie into smaller pieces.

Mr Lessard: I too want to congratulate you on your effort and wish you the best of luck. It is obvious that you have done a lot of preparation and hard work to try and make sure this development is a success.

I come from the city of Windsor, which is a city that is really hard hit by people going over the border to do their shopping. I expect that I might hear from people there saying, "Let us open on Sunday, because we need to compete with the United States and try and keep people at home to shop," but I know that argument is not really the solution. The solution is to attract people from Michigan and Ohio and New York into our communities in order to stimulate the economy. That is what you are attempting to do and I think this is what the intention of this legislation is trying to encourage.

I want to thank you for bringing to our attention the impact these proposed amendments to the act are going to have, because that is very useful information and that is the reason we are travelling around and listening. I am not going to say that I am going to fight to make sure that amendment about the proposed developments goes in, but just say to you that is something we are going to have to pay some attention to. It is an interesting problem.

With respect to the chamber of commerce, I just wanted to say that I tend to agree with your submission.

Mr Kormos: Perhaps some legal advice.

Interjections.

Mr Kormos: Which I have often needed and only rarely turned down, at the most inopportune of moments, and the consequences have always been great.

A whole lot of people have been coming here talking about it, and remarkably, people who tend to be Sunday shopping types, if you will, and other people, like God-fearing people and working people, who tend to be on the anti-Sunday shopping side—not to imply that those who are pro Sunday shopping are necessarily lacking godliness but I am convinced that it may well reflect a predisposition.

None the less, there have been three areas of concern. The chamber of commerce, yes. The level of government, or who does the adjudicating in terms of an application? Who does the applying of the standards that are set in the legislation, regardless of whether they are the ones that are

currently contained, whether they are beefed up, whether they are made a little more precise. So one, we have had some people say, "No, don't let regional governments do it when in fact there are municipal governments, because municipal governments are closer to the issues." There are all sorts of strange little parochial politics sometimes, people have told me, that go on in regional governments. Other people say, "No, the province should take the bull by at least one horn and administer its own guidelines." Quite frankly, the UFCW, or at least a whole lot of people in the UFCW, would prefer that, because they see there being less likelihood of misapplication of law. Do you have preferences or some ideas?

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The other thing, of course, is that the solicitor for the region of Ottawa-Carleton brought up the whole problem of judicial review and natural justice rearing its head. You can taint council very easily by having a pre-council discussion with one council member, for instance.

So one, that issue; two, an appeal process; and once again, those people who have strong feelings about common pause day, and I am one of them, have concerns that an adjudicating body can make a decision and then there is no recourse for the party of the faction that feels aggrieved. Obviously that is a double-edged sword, because that would mean similarly that people like developers, like property owners, who want to seek exemptions who feel they fall within the guidelines could well avail themselves of an appeal and review process. Have you comments on either of those two, because you have obviously spent some time with the legislation?

Mr Fairbrother: The question of which level of government should be the decision-maker, if you will, is not strictly, I suppose, a legal question. There are a lot of ramifications that go far beyond the legal aspects of it. I am not sure I have anything to say that would be terribly helpful on that, because I share the concerns you have in terms of leaving out the municipal level, and equally there are concerns if you were to just leave it on a broad-brush basis at the provincial level.

But the lack of an appeal process, as it presently stands—we were talking about this just today at lunch—is certainly a concern. The way I read the legislation, you can meet all of the criteria and council still has the right to turn you down. I think that in those circumstances there is certainly no indication that there is to be an appeal to a tribunal such as the Ontario Municipal Board or something to that effect. Normally your only remedy then would be an appeal to the courts and I do not think a court is going to touch it, because it is not going to interfere with the discretion of the council.

Certainly it creates the potential for hardship. I do not know what Brian's thoughts are on that, as a potential applicant. As it is proposed, it is clear enough from a legal standpoint where the decision will lie at the present time. As for a preference, I cannot really offer one.

The Chair: Thank you very much, gentlemen, for a very interesting presentation, as you can see from the interest it has sparked. I am sure your suggestions will be

taken into consideration when the committee meets to discuss the bill clause by clause, word by word.

UNITED FOOD AND COMMERCIAL WORKERS, LOCALS 175/633

The Chair: Our next presentation is from Mr Jerry Clifford, representing the United Food and Commercial Workers, Locals 175/633. As you know, sir, you have approximately half an hour, to be divided between your presentation and the questions the committee members will have for you. Please go ahead.

Mr Clifford: Thank you for the opportunity to speak to you. The United Food and Commercial Workers' Union, Locals 175/633, with approximately 45,000 members in Ontario, of which approximately 1,200 members are employed in the Peterborough-Lindsay area by such companies as A&P food stores, Drug City, Woodhouse and Cherneys furniture stores, Valdi food stores, and there are many others as well, would like to thank you for the opportunity of coming before you and participating in a democratic process with regard to the issue of Bill 115, Sunday shopping and working.

UFCW Locals 175/633 are the largest private sector union in the whole of North America. Our local union is solely situated in Ontario, so it should come as no surprise to this committee that Locals 175/633 take the issue of Sunday shopping and working seriously.

Our membership has said time and time again that we do not want to work on Sundays. We believe it is in the best interests of the employers and our members to have legislation in Ontario that provides for a common pause day.

On Monday, July 29, 1991, Brother Clifford Evans, the Canadian director of the UFCW Canada, made a presentation to this committee. Our members in the Peterborough and Lindsay area and the province support the recommendations made by Brother Evans to this committee on that date. I only wish to raise our five main concerns with the proposed amendments to the Retail Business Holidays Act, and those are the intent of the Retail Business Holidays Act; the municipal option; drugstores opening on Sunday; the enforcement of the legislation, and the definition of a "retail business."

The intent of the Retail Business Holidays Act: The present act fails to recognize the rights of workers to a common pause day. The proposed amendment to that is that the proposed legislation recognizes the need for and importance of a common pause day in part I of the Retail Business Holidays Act. The wording of the proposed amendment to subsection 4(2), such as "shall take into account" and "should be maintained" is, however, too general. This achieves only a watered down version of what is required.

Our recommendation to the committee is that to ensure that the intent of the Retail Business Holidays Act is consistently followed, the amendment to subsection 4(2) regarding municipal powers should read:

"The council, in passing a bylaw under subsection 1, must maintain the principle that holidays are to remain as a common pause day; that is, to ensure that they remain days on which most businesses are not open and days on which most persons do not have to work."

The municipal option: The present act, the legislation implemented by the previous Liberal government, provides that municipalities have full control over the decision to allow stores to open on Sundays or other holidays. There are no regulations, no criteria and no principles to guide municipalities in the making of the decisions. The will of the municipal councils simply predominates. The provincial government has no way of stopping wide-open Sunday shopping and working. One only has to look at the high rate of applications for exemptions that are presently in the hands of the municipalities for proof of the extent of this problem.

The proposed amendment: As proposed, the decision-making process would remain in the hands of the municipalities. In addition, the regulations and criteria of the tourist exemption as set out in sections 1 and 2 and subsection 4(1) of the new amendments are so broad as to effectively restrict no one. Under the proposed rules, decisions of the municipalities would be final and the province, including the Solicitor General, would not be able to challenge this decision.

In the view of Locals 175/633, the proposal would lead to wide-open Sunday shopping and working, and as a result would fail to enshrine the common pause day as intended.

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Our recommendation is that the recreational, entertainment and cultural pursuits of tourists as well as the goal of enshrining the common pause day can both be accommodated by the law. To accomplish this, Locals 175/633 recommend that the proposed amendments be changed to reflect the following.

The new subsection 4(1) should read:

"Notwithstanding section 2 and subject to the provisions of clause 4(1)(a) and (b) below, the council of a municipality may by bylaw permit retail business establishments in the municipality to be open on holidays where it is essential for the maintenance or development of a tourist industry and where it is essential to meet the education, cultural, leisure and recreational needs of the tourist; and

"(a) only retail business establishments in which the total area used for serving the public or for selling or displaying to the public in the establishment is less than 4,000 square feet; and

"(b) the number of persons engaged in the service of the public in the establishment does not at any time exceed four."

The government must establish a committee of the affected stakeholders that will prepare and recommend a new set of viable tourist criteria regulations. The stakeholders should include the representatives of the affected groups, such as retailers, unions and government.

According to the amendment, the tourist criteria as proposed would not form part of the legislation. However, we recommend that the new set of viable regulations established by the stakeholders mentioned above be integrated into the legislation.

Subsection 4(8) must be modified to state, "The council's decision may be appealed by any interested party to the tourist exemption board."

Drugstore openings on Sundays: Under the present act, drugstores with a square footage of 7,500 square feet or

less may open on a holiday. Currently these drugstores must dispense drugs and the principal business must be for the sale of goods of a pharmaceutical or therapeutic nature, for hygienic or cosmetic purposes. No other goods are allowed for sale, with the exception of sundries.

Unfortunately, there is a widespread problem with these drugstores selling soft drinks, potato chips, candies and other foodstuffs which are considered sundries. In many cases, up to 80% of sales in these stores consists of products of a non-pharmaceutical nature. This occurs in spite of the ample opportunity to purchase such non-pharmaceutical products provided through the numerous convenience stores that are allowed to open on Sunday. To compound the problem, the absence of a restriction on the number of employees working on a Sunday or holiday allows some drugstores to dedicate extra help for the benefit of sales of these non-pharmaceutical products.

The proposed amendment: In its proposed legislation, the government has not addressed the problem of large drugstores opening on Sundays. The proposed legislation also fails to put a restriction on the number of employees allowed to work on a holiday. Locals 175/633 recommend that clauses 3(2)(c) and (d) of the present act be amended to read as follows:

"(c) the total area used for serving the public or for selling or displaying to the public in the establishment is less than 2,400 square feet," such as it was in 1989; and,

"(d) the number of person engaged in the service of the public in the establishment does not at any time exceed four, including the pharmacist, who must be present in the establishment during business hours."

Currently there are many drugstores with a square footage of 2,400 square feet or less in many communities in Ontario that provide ample opportunity for the population to receive the needed medication or other prescription products, particularly in cases of emergency. Additionally prescriptions and other medication can be obtained at various hospitals and clinics with onsite pharmacies open on Sundays.

The limitation of four persons, including the pharmacist, to be engaged in the service of the public would allow the prescription or other medication needs of the people of Ontario to be fully met. Our recommendation would require pharmacists to be present during business hours in the establishment in order to attend to the prescription and other medication needs of people, which addresses the real reason for drugstores remaining open on Sundays.

The enforcement of the legislation: Currently the act provides for maximum fines of \$50,000 upon conviction for illegal Sunday openings. Also, municipalities or the Attorney General of Ontario can apply to the Supreme Court of Ontario for an injunction to close an establishment that is opening illegally. However, there are no minimum fines. In many cases the courts are imposing fines of \$300 upon conviction. That is hardly a deterrent.

Under the present act only two parties, the Attorney General of Ontario and the municipality, are allowed to file for an injunction. Unfortunately, these two parties are in many cases not aware of the violations or are not interested in filing for an injunction.

The proposed amendment is that the government has proposed minimum fines of \$500 for the first offence and \$2,000 for the second offence. We fully support the principle of the minimum fine. However, the proposed fines are far too low. We believe the amount of the proposed minimum fines will not deter retailers from opening on Sundays. In fact, a retailer's profit for one day could easily surpass the amount of the fine.

Under the proposed legislation, there would be no change with regard to who can apply for an injunction. As a result, we foresee the same problems of little enforcement and no action continuing. In order to address problems related to the minimum fine being an insufficient deterrent and the lack of enforcement, Locals 175/633 are recommending the following:

The proposed amendment of the minimum penalty should be modified to include, "For first offences, the minimum fine for conviction be \$10,000, and for subsequent offences, the minimum fine for conviction be \$20,000."

Subsection 8(1) should be amended to read, "Upon the application to the Supreme Court by any affected or interested party, the court may order that a retail business establishment close on a holiday to ensure compliance with this act or regulation under this act."

At present, legislation similar to the proposals of Locals 175/633 exists in the Metro Toronto area, and we have no reason to believe justice is cheaper in the midnorth region, which reinforces the need for reasonable and effective deterrents.

The definition of a "retail business": Presently under the act the definition of a retail business does not include club warehouses, such as Price Clubs. This flaw allows the giant stores in the guise of membership clubs to be open on Sundays. The government has not addressed the existing problem relating to the definition of a "retail business." As a result, club warehouses will continue to operate on Sundays.

The recommendation of Locals 175/633 is that to prevent circumvention of the act by establishments such as Price Clubs, clauses 1(1)(b), (c) and (d) of the present act should be amended to reflect the following:

"1(1)(b) 'retail business' means the selling of goods or services by retail to any member of the public, including a member of a club or co-operative of any other group of consumers.

"(c) 'retail business establishment' means the premises where a retail business is carried on. Any space or stall in markets, particularly in covered markets and 'flea markets,' shall be considered to be a retail business.

"(d) 'principal business' means that portion of the business which accounts for 80% of the retail business establishment's gross sales."

Our general concerns with the Sunday shopping and working and tourism are that according to the proposed amendments to the Retail Business Holidays Act, the tourist exemption as proposed would be granted by the municipality only where it is essential for the maintenance or development of tourism. As previously stated, the proposed criteria for the tourist exemption are far too broad and too general and would provide too much leeway for municipalities to operate as the sole decision-makers. As a result, the exemption

as proposed would lead to wide-open Sunday shopping, and of course the working goes with the shopping.

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The geography of the midnorth dictates that ease of Sunday opening for tourism purposes could lead to one centre declaring itself a tourist area in order to draw the residents of another centre three or four hours away to come on Sunday to spend dollars badly needed in the drawn-upon centre.

Clearly the government has not achieved a balance between the establishment of the principle of a common pause day and the development of tourism. However, by accepting our recommendations, Locals 175/633 believe the recreational, entertainment and cultural needs of tourists can be met without opting for wide-open Sunday shopping and working and without one centre of commerce preying upon its neighbour.

Sunday shopping and working and the family: The amendments proposed by the government would lead to wide-open shopping and working affecting a significant number of workers and their families in Ontario. Locals 175/633 believe that these workers and these families have a right to and want a common pause day.

Retail workers and their families are directly affected by Sunday shopping and working. That is more than 2 million people in Ontario. In addition, police, transportation, public workers, maintenance staff, delivery drivers and other support services for retailing, which represent another 250,000 workers and their families, would also be affected by wide-open Sunday shopping on Sundays. Ontario needs a common pause day for workers and for their families.

In conclusion, the proposed Bill 115 is not the legislation anyone wants. It does nothing to correct many of the problems with the current Retail Business Holidays Act and makes a joke out of tourism exemptions. We would be very surprised if you can find one municipality in Ontario that does not qualify for the exemption under these guidelines. We do not object to the need for tourism exemptions, but this determination is not one the municipalities wish to have thrust upon them. This is a matter of provincial jurisdiction and the province must come up with a way of regulating it.

Jobs will not be created. Profits will not increase. All this law will do is break up family unity and spread profits from six days to seven days.

We have heard a lot of talk about cross-border shopping. Cross-border shopping and Sunday openings are two different issues and I hope you know and realize that Sunday openings will not stop cross-border shopping.

I would like to take this time to thank the committee very much for its time.

The Vice-Chair: Thank you very much, Jerry. We have a really brief time. We also have a clarification from the PA first.

Mr Mills: Thank you, Mr Clifford. I would just like to clarify, for your information and for your union, on page 6, the definition of "retail business." The Attorney General has decided that the definition of a "retail business" does include club warehouses, and police forces throughout Ontario

have been advised that should these premises be found open on Sunday, they are subject to prosecution.

Mr Sorbara: I would first like to thank Mr Clifford for his presentation. There have been a number of presentations from the UFCW, all of them presented, I think, with great force and conviction before the committee. I think, though, yours is the only one that says: "The proposed Bill 115 is not the legislation anyone wants." Can you just expand on that a little bit? I tend to agree with you, although I think I would have a different view of what legislation people do want.

Mr Clifford: I am in trouble if you and I are in agreement.

Mr Sorbara: No, because frankly this is municipal option with a different colour. It is municipal option based on some broad tourism criteria. Never mind the union. In your personal life, in your community life, is there anyone who thinks this bill is going to really solve the Sunday shopping dilemma? Forget about the union position; just personally.

Mr Clifford: In answer to that, I would say it is not that the bill is no good, but what is there needs changes to make it effective, to make it good. The way it is right now, no, it is not going to be any good. These changes would make it better.

Mr Carr: On page 7, just carrying on with what Mr Sorbara said, it makes a joke of the tourist exemptions and then you go on to say, "We would be very surprised if you can find one municipality...that does not qualify." I take it that what you see, if the changes do not come in that you propose, is that we are going to have wide-open Sunday shopping in Ontario.

Mr Clifford: That is right. When I first saw the legislation, what it took for the criteria, I thought, "What town does not have that?" Find me one place. You find a village that has only a couple of hundred people who live in it and it would have all those criteria.

Mr Fletcher: Thank you, Mr Clifford, for being here today. I have to lead into this question so I have two quick questions. Where do you work?

Mr Clifford: I am a business representative for UFCW.

Mr Fletcher: You did work in the stores at one time?

Mr Clifford: I spent all my life working in an A&P store.

Mr Fletcher: If I understand this right, does A&P get fresh produce delivered on Sunday, if it opens on Sunday?

Mr Clifford: No, they do not. Not yet.

Mr Fletcher: When do they get it right now?

Mr Clifford: On Saturday.

Mr Fletcher: So that means I would be buying Saturday's produce.

Mr Clifford: That is right.

Mr Fletcher: So I would not be getting the fresh stuff.

As far as the exemption is concerned, the board you have been asking for, the review board, would that be like the Ontario Municipal Board or would it be another board set up to review the decisions of a municipal council?

Mr Fletcher: It would be the board as it is spelled out in the presentation there.

The Vice-Chair: Mr Mills would like to make one more brief point of clarification.

Mr Mills: I am very sorry, Mr Clifford. When I told you about the Price Clubs, it was the decision of the Ministry of the Attorney General and not the minister per se.

The Vice-Chair: Mr Clifford, I would like to thank you for taking the time to come here to present today. It was well thought out. Thank you very much.

Mr Clifford: Thank you very much.

RETAIL, WHOLESALE AND DEPARTMENT STORE UNION

The Vice-Chair: Dan Garvey. Mr Garvey, I would like to welcome you to the standing committee on the administration of justice. You have a half-hour. You can divide that half-hour up any way you want. I am sure the fine gentlemen up here from all three parties would like to ask you some questions when you are done, though.

Mr Garvey: Good afternoon, and I thank you for your time.

I work for the Retail, Wholesale and Department Store Union, and we are pleased to present this position on behalf of our 20,000 members in Ontario directly affected by this legislation and our 140,000 total international membership interested in the working conditions of retail workers. We represent working people in the retail food, department store, books, drug, clothing, shoes, furniture, hardware and sundry industries. These are supported further by members of the trucking industry and warehousing and production facilities which supply these retailers.

The RWDSU is affiliated with the Ontario Federation of Labour, the Canadian Labour Congress and all municipal labour councils. The OFL fully supports in consultation the position of the RWDSU and its members.

It has been the position of many other socially conscious organizations and we believe the position of the government that there should be a common pause day for retail in Ontario and that most stores should be closed. The present effort by the government to enshrine this principle is applauded by our membership and we would like to share a few concerns with the practical application of this idea.

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We recognize that there is a need for pharmaceutical products and emergency grocery shopping on Sunday for a few consumers. The legislation should recognize these limited exceptions as just that—exceptions to the rule—and deal with these loopholes existing for retailers circumventing the true intent of the act.

We further recognize the need for tourist exemptions for legitimate tourist areas, but this should not be used as a guise to promote another daily shopping day or to address the cross-border shopping issue. The legislation was not designed for, nor intended to be a promotion of, tourism or control of cross-border shopping. It is a piece of legislation enacted to provide employee rights to a common pause day.

Our concerns and proposed changes to the amendments to the Retail Business Holidays Act can be set out

under the following subjects: (1) purpose of the Retail Business Holidays Act; (2) definition of a retail business; (3) drugstores; (4) tourism criteria and the municipal option, and (5) enforcement.

Number one, the purpose: While the present act fails to specifically enunciate a worker's right to a common pause day, the proposed amendment falls short of clearly establishing this right, which we believe is the intent of the government. Should there be any test in the future of the weight of exceptions to the rule, then the lawmakers should be able to refer back to this guiding right. It will provide consistency to the legislation.

Our proposal would be that we would recommend that section 4(2), regarding municipal powers, reads: "The council, in passing a bylaw under subsection (1), must maintain the principle that holidays are to remain as a common pause day; that is, to ensure that they remain: (1) days on which most businesses are not open; (2) days on which most persons do not have to work."

A retailer by any other name is a retailer. Whether they call themselves membership clubs, club warehouses, or otherwise, these are retailers, and the definition of a retail business needs to be addressed to incorporate these giant stores, like Price Club, which currently operate on the edge of the law.

Our proposal is that the present act should be amended to read to reflect the following:

1. "Retail business" means the selling of goods or services by retail to any member of the public, including a member of a club or co-operative of any other group of consumers.

2. "Retail business establishment" means the premises where a retail business is carried on. Any space or stall in markets, particularly in covered markets and flea markets, is considered to be a retail business.

3. "Principal business" means that portion of the business which accounts for 80% of the business's gross sales.

Drugstores: We accept that emergency pharmaceutical services are a necessity, but the current act provides for square footage of 7,500 square feet. This has resulted in the proliferation of large chain drugstores that devote most of their floor space, employee time and sales to non-pharmaceutical sales on Sunday. They have been transformed to large grocery, sundry and convenience stores, thereby robbing small independent druggists and legitimate convenience stores of much-needed sales.

The government should allow the drugstores to serve their purpose and the convenience stores, currently exempted, to serve theirs. There is no need for these large stores as pharmacies or for the number of employees for non-emergency services.

Our experience with membership in these stores supports this conclusion. We cannot find any municipality in Ontario without a small druggist or pharmacy attached to a hospital or medical clinic. We believe that the real reason for opening these businesses on Sunday is for emergency drug care. If so, the pharmacist should be on duty at all times, the floor space should be limited to these reasonable needs, and the number of employees likewise.

Therefore, RWDSU suggests that the act be amended to read as follows:

"3(2)(c) The total area used for serving the public or for selling or displaying to the public in the establishment is less than 2,400 square feet.

"(d) The number of persons engaged in the service of the public in the establishment does not at any time exceed four, including the pharmacist, who must be present in the establishment during business hours."

Tourism criteria and the municipal option: The RWDSU believes that the only way the municipal authority over the regulation of Sunday work can work under the tourism exemption is with clear and unambiguous criteria and an external arbitrator if a municipality oversteps these criteria.

It is clear from the current legislation that some municipalities have used the tourist exemption to declare themselves outside the legislation for the purpose of non-tourist-related shopping and competition. The proposed regulations under the new sections 1 and 2 and section 4 are too broad to be meaningful.

A number of municipal politicians are already claiming tourist status in areas not traditionally regarded as recreational or cultural tourist areas. Sunday openings should only be for the maintenance and development of tourism and tourists, not recreational shopping. If the province is not to be the final decision-making authority, then an external tourism exemption board should be established to review all exemption applications for their tourist status under a well-defined set of guidelines.

The RWDSU recommends the following amendments:

"4(1) Notwithstanding section 2 and subject to the provisions of clauses 4(1)(a) and (b) below, the council of a municipality may, by bylaw, permit retail business establishments in the municipality to be open on holidays where it is essential for the maintenance or development of a tourist industry and where it is essential to meet the educational, cultural, leisure and recreational needs of the tourist; and

"(a) only retail business establishments in which the total area used for serving the public or for selling or displaying to the public in the establishment is less than 4,000 square feet; and

"(b) the number of persons engaged in the service of the public in the establishment does not at any time exceed four."

"4(8) The council's decision may be appealed by any interested party to the tourist exemption board."

Further, the RWDSU recommends that the government establish a committee of the affected stakeholders—for example, representatives of the retailers, unions and government—to prepare and recommend a comprehensive set of tourist criteria that are both viable and reasonable, and that these would form regulations to be part of the legislative authority.

Enforcement: Current enforcement is weak because, while maximum fines are \$50,000, penalties are small and of little deterrence. The minimum fines should be increased even beyond the current amendments proposed. Most retailers still profit from a Sunday opening.

Ontario should further follow the Quebec lead in allowing affected parties, not only the Attorney General and municipality, to apply for injunctions, reducing costly enforcement. Violators faced with stiffer penalties and more community-based threats of injunctions should be more reluctant to propose costly litigation.

The RWDSU recommends the following changes: that the minimum penalty be modified to \$10,000. Upon the application to the Supreme Court by any affected or interested party, the court may order that a retail business establishment close on a holiday to ensure compliance with this act or regulation under this act.

In summary, our members are both retail workers and consumers. They know that Sunday work only means shifts of work and business shifted from one part of the week to another and a more fractured workweek. They already are exposed to one of the longest and least stable workweeks. The effect on their families and personal lives is already as difficult as any work group in society.

Few consumers who shop on Sunday would opt to work on Sunday and pay the price that retail men and women do. Some will argue that we must compete for cross-border shopping dollars, but across the border they do not enjoy or pay for many of the social programs we enjoy, such as medical care. Should we eliminate these too and let the marketplace take its toll?

Our membership believes that this government can balance the interests of business and competition with a fair and just working environment for these millions of Ontario workers. Cross-border shopping is the product of a high Canadian dollar, lower prices, lower social benefits and a free trade environment brought on by federal policies. It is not a matter of shopping convenience, and we should not design worker rights around temporary and fluctuating economic conditions. We should also not force our municipalities to fight among themselves over limited shopping dollars. The fairest approach to Sunday work and shopping is to minimize the risk to all and eliminate all but the most essential services. A caring government should exercise its mandate and fulfil its role in protecting the welfare of the Ontario worker.

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The Vice-Chair: Thank you very much, Mr Garvey. Before we go into the questions, Mr Mills would like to have a clarification.

Mr Mills: Mr Garvey, I suppose you were here and heard me talk about the clubs. I would just like to bring out a point on page 2. You go on to say, "and the legislation was not designed for, nor intended to be, a promotion of tourism." I would like to take you up on that point. Part I of Bill 115 reads, "Part I of the bill establishes the principle that retail business holidays are common pause days and that municipalities should not use their exemption power to permit retail business establishments to open on holidays except to maintain or develop tourism." I just want to make it clear that the legislation is designed to maintain and develop tourism, and not intended to do that.

Mr Garvey: If I could just comment, I was making the point that the main thrust is the common pause day. Of

course there are other exceptions tied into that as far as Sunday openings are concerned.

Mr Sorbara: Have we ever had a common pause day in Ontario?

Mr Garvey: Municipalities have.

Mr Sorbara: But have we ever had a common pause day in Ontario? The government is saying: "We brought this bill in so as to bring about a common pause day in Ontario. We've chosen Sunday. We could have chosen Wednesday but we chose Sunday." I do not believe, you do not believe, and most of the people in the province do not believe this bill is going to bring about a common pause day in Ontario. What are we looking for? Have we ever had a common pause day in Ontario?

Mr Garvey: What we are looking to clear up is a very bad situation right now, to make it better. For us to say that it is not going to work—you have not seen it and I have not seen it. We do not propose to see it in the future. We are certainly not suggesting we are going to forget about it.

Mr Sorbara: This bill is almost identical to the bill the Tories brought in a long time ago when they made everything close except businesses that promoted or developed tourism. It is not very different. A few of the words are different and the application procedure is different, but this is the Tory legislation from back in 1972 I guess; I have not got the date.

My problem is that we keep saying, and particularly the unions say, "We must have a common pause day in Ontario." Have we ever had a common pause day in Ontario? When did we have it and what factors brought it about? There was a day when you could not see movies, play baseball, go into the park, shop or drink. There were certain things you could do but they were restricted to the home. Mostly you could work in factories but you could not ride the streetcars. Was that a common pause day? Are we going to get a common pause day with this bill? Do we need to do something else to bring about a common pause day? What are we looking for?

Mr Garvey: We are looking to help out the retail workers.

Mr Sorbara: What about the rest of the workers? Are they not included in a common pause day?

Mr Garvey: You have a separate act. Right now we are saying the retail workers have a voluntary position, whether they want to work on Sunday or not work on a Sunday. Like some of the people who spoke before me, I have some difficulties with that and how we police that.

Mr Sorbara: If we made it illegal for any retail worker to work in Ontario on Sunday, on pain of prison, without a special permit acquired from the government—no retail worker can work on Sunday in Ontario without a special exemption from the government—a certificate that says, "Here, you can go work on Sunday," if we brought in that law, would that bring about a common pause day in Ontario?

Mr Garvey: No, sir, it would not, just as it is illegal to rob a bank.

Mr Sorbara: Let me just say if no store can open, and if it opens the government can confiscate the store and no workers can work, and if they work they go to prison. If it was that tough—confiscation, prison for workers and confiscation for the businesses—that is, if it were absolutely certain that every store would close on Sunday, would we have a common pause day in Ontario?

Mr Garvey: No, we would not.

Mr Sorbara: Thank you.

Mr Carr: I was interested in your thoughts on what you see happening. You have brought in some polls. If the legislation stays the same, do you think we will see Sunday shopping in Ontario?

Mr Garvey: Yes, I think we will see it and we will see the same mess we have had now for the last couple of years. You have municipalities that do not want to open on Sunday. An earlier presentation from the developers said that if they do not open and pick up some business, then somebody else is going to open and get it. You have people opening that do not want to open. They are not even making a living on some of these situations in the smaller communities, but they must stay open to hold on to their share of the business. We have a number of large companies we deal with that have told us they do not want to open either. It pulls down the others and gives us a level playing field.

The Sunday openings way back when were for the mom-and-pop stores. That is where I had the small corner store. I am from Peterborough. I was born and raised in Peterborough and I have a large family, 10 brothers and sisters, who are working in this city right now. Years and years ago the small stores on the corner opened up and if you forgot to get your quart of milk you went up and got it and maybe you spent an extra 10 or 15 cents on it. The owner of that small store said: "This is where I make my living. I can't compete against the big guy because I can't get the prices he gets." That was the idea.

Now everything is turned around. The large stores are opening, and you cannot tell me that a drugstore that sells more groceries than the small mom-and-pop stores on the corner ever thought of selling is a drugstore any more. You go in there and you have difficulties finding a druggist. There is no emergency there. We are proposing that they be downsized and that they must maintain a druggist on the premises. As far as emergency goes, you have your hospitals, and the hospitals almost all have a drugstore attached to them.

Mr Carr: I agree. I think we probably will see a significant portion of the province the way it is now. I know you say that members in Ontario directly affected by legislation and 140,000 international—I was wondering what was happening in other provinces where there is Sunday shopping now. Is your union working to change that or has it gone on to other things?

Mr Garvey: In the provinces that do have it wide open, yes, our union is working to do what it can to reduce that. The proposal was that wide-open Sunday shopping is not bringing in extra bucks; it is spreading out the bucks. The companies I have dealt with are saying: "Look, I have

the same budget. Now you're telling me I have to open another day." Then I have voluntary workers over here saying: "I don't want to have to work on a Sunday. I don't have to spend it with my family. Maybe that's the only time I can get involved in organized baseball or whatever, but that's a day I can count on and I am going to have Sunday off, no matter what." Then the company comes along and says, "These people won't work, so we're going to hire temporary part-timers and we're going to pay them whatever the rate is."

The people on the other end of the scale are not benefiting at all, except for the fact that they do not have to work. Their hours are reduced. You have people who have been around for a number of years and saying: "Based on seniority, I've helped out this company. I'm looking to contribute to the family pot by getting X amount of hours and bringing home X amount of dollars." Times are tough, and now all of a sudden we have a reduced paid workforce on a Sunday. Sure it is voluntary, but this reduced paid workforce is being told, "Well, do you want the job or don't you?" We are not creating jobs. We have lost ours over here and we have picked them up over here.

1530

Mr Carr: One final question on the tourist exemption board that you set up: As you may know, some of the boards we set up now are very backlogged. There are about 6,000 cases backlogged. You see that even in our own ridings with the Workers' Compensation Board, how they got backed up. People are saying one of the things they want from the politicians is just somebody to make a decision, whether it is municipal or provincial, just somebody to stand up. They know that people are split almost 50-50 on this issue. What do you say to somebody who says, "We shouldn't have any more boards, just politicians to stand up and make a decision and do what they were elected for"?

Mr Garvey: I am not saying I disagree with what you are saying, except that there is another part to that: the injunction. If I happen to have a problem with my membership and throw a picket line around your store because we are on a legal strike and it happens to affect the business of the person next to you, people are in an awful hurry, and it is granted pretty quickly, to get an injunction, to get me the hell out of there quickly because I am affecting somebody else's business. I am suggesting that there would be a form of injunction and I suspect that some of these problems would be handled pretty quickly. As it is right now, people do not have to pay any fines. They do not have to worry. They do not even have to close. That has been going on in Toronto for years now. I open on a Sunday and I get my fine. I am standing there and I expect my fine. All that fine is going to give me, when the police walk in, is a little bit of extra publicity. On the way down today I was thinking that I would be in pretty hot water if I happened to get nailed because I missed a speeding ticket or a parking ticket and did not happen to have the money on me. But those are not working. I expect that if you started the injunction avenue, you would clean up a lot of that.

Mr Lessard: In your presentation you said you recognized the need for some essential retail services and you further recognized the need for tourist exemptions. I think you would probably recognize that there are going to be retailers who would test this legislation by opening illegally and try to take the route of going through the courts to see whether they can challenge it that way. I also understand your opposition to wide-open Sunday shopping. I want you to give me your comments. I suggest to you that in order to provide a disincentive to merchants to try to take that route to oppose the legislation, and perhaps improve the quality of life for people who have to work on Sundays, that there may be some consideration to make it a requirement that time and a half or some premium pay be paid for Sunday work. What do you say to that suggestion?

Mr Garvey: We have already run into that and that is not helping either. In most of the unions we have time and a half or double time on the Sunday. I have been involved in a case with one of the companies in Peterborough. It has been going on now for two and a half years. The company said: "Fine, the contract calls for double time or time and a half. You'll get it. We'll see you work on Sunday but this week you're going to have Tuesday or Thursday as your day off."

That employee who does not get to meet his or her family, go to the ball game or just sit down and relax or lie down and catch up on the sleep missed all week—whatever he wants to call it is up to him—that common pause day he is missing, he did not get anything for it except a Tuesday off in the middle of the week. They cannot visit their friends if that is the case, and there probably is not going to be a ball game in the middle of the day or on the Thursday in the same situation. They may have made an extra half day's pay or, in the case of double time, a full day's pay. Some of the companies have taken the position that it is voluntary and that voluntary recognition supersedes a collective agreement. That is up for debate right now. I do not agree with that. I do not think that will fix the problem.

Mr Kormos: Give me just a few seconds to say a preamble to the question I am going to put to you. I have only been with this committee three weeks. Tomorrow is my last day. It is going to make a whole lot of people really happy. I tell you, it was only yesterday that a member of this committee sniffed with disdain in his voice that it seemed it was only the unions and some fundamentalist churches that were advocates of a common pause day. I say thank God for the unions and some fundamentalist churches.

The fact is I am not aware of a single faction within the Christian church movement, and quite frankly, within the non-Christian religious movements in this country and in this province, that does not advocate common pause days. Today, we see the reference again that it seems it is just the unions that seek a common pause day.

Now, you have been very specific in noting that this legislation is the Retail Business Holidays Act. It is now, and historically it has been. So to try to muddle the issue by saying, "What about the other persons who work?" is

not germane to a discussion of legislation which, historically, has been written purporting to protect the rights of retail business workers.

There have been some small business people—I have to tell you this—who have come here and said they want a bill to open on Sunday. There have been, impressively, some big corporate interests that have come here with some good common sense, I believe, and some strong social consciousness who say: "No, we do not advocate Sunday shopping, notwithstanding that we would, perhaps, stand to make some money. We are not advocates of Sunday shopping. We believe that a common pause day is good for communities, good for the people we live with and share our lives with."

In your experience, though, what is driving this Sunday shopping movement? In your experience and in your familiarity with it, is it really an interest on the part of corporations to create more jobs for workers, or are they motivated by the potential for big plazas—because it seems big plazas are in the forefront of the movement—or are they talking about profits over people?

Mr Garvey: There is no doubt about it: They are talking about profits over people; but there are a couple of things that have to happen. In the last couple of years, surprisingly enough, some of the big companies have come out and said, "It is about time we got rid of the little guy. We don't need him any more." And that is where the people go down the drain. Some heads of large companies have gone on record—and everybody knows who they are—saying, "The little mom-and-pop stores, whatever they sell, it's about time we got rid of them, and we opened the big stores and they handled it all."

Now, what we have said is that we are not trying to kill all the little guys. I mean, we have restricted the shopping area. Years ago, they tried the route of legislating the shopping area to so many feet. You walk into the store and there is a rope there. If you are missing your bottle of ketchup, and it is not in the roped-off area, somebody says: "Go down. There's nobody down there. Go down and grab it, and grab a bottle of mustard while you're there because this guy over here wants it." That did not work.

We are not suggesting that we close down these people, but I am telling you right now that the large companies are. It is profits, and the profits are going to be made off the backs of the workers. I do not know how the hell I am going to protect our members. They do not want the double time, they do not want the time and a half. The fact is they do not want to work.

That was our big stick, when we could tell the company, "You're going to have to pay Joe or Mary double time," and the company said: "Boy, that's profits. We don't want to do that." Now they have said: "We can make a hell of lot more profit. We'll pay them the double time, but we're going to cut them off a day over here. We'll pay them, but we're going to get it back." And the little guy is going to go under. He will no longer be around.

The Chair: Thank you very much, Mr Garvey, for your presentation.

1540

GREATER PETERBOROUGH
CHAMBER OF COMMERCE

The Chair: We now have, representing the Greater Peterborough Chamber of Commerce, Mr Don Frise. We have approximately half an hour to divide between your presentation and the questions, and I am sure you have noticed there are many of them, from the committee members.

Mr Frise: Thanks very much, Mr Chairman. I would like to start by telling you a little bit about the chamber of commerce, just in case there are some of you who are not familiar with it, and specifically about who we are in Peterborough.

We are entering into our 102nd year of operation in Peterborough. We have grown up with the community. Out of the 2,500 businesses in the community we have about 1,000 of them as members. Our typical member has fewer than 10 employees, although we also have General Electric and Quaker Oats and some of the larger corporations within the community as members. So we have a very diverse membership base.

Our primary objective is to work towards a strong local economy, but one of the things that our members expect and ask us to do is to try to represent them on issues that are of importance to them. That is one of the reasons we are here today.

As I say, our typical member is a small business person; and I have to say that because it gets to my first point, which is that I think you are getting a lot of diverse kinds of reaction to this situation—probably that is mild. I am not surprised because I think what you have to do is analyse where it is coming from and look at why people are saying what they are saying.

It is like looking at coloured jelly beans through a black-and-white television set. They all look like jelly beans, but when you turn on the colour, all of a sudden you realize that there is some sense to the way the thing is put together. I think if you are drafting legislation, obviously you have to take those individual differences into account.

What I would like to do is go through a few things here that I would suggest you have to consider in your analysis. I would then like to make a couple of suggestions to you about what you might like to do in terms of drafting legislation.

To take a look at retail, unquestionably, in our mind, you have to look at small retail, the mom-and-pop kind of situation, and you also have to look at the larger retailers. The smaller retailers we have talked to over the last while have been opposed—I would not say unanimously, but certainly with an 80% level—to Sunday shopping. They have wanted to have a common pause day.

I am sure you have heard the rationale before: that all they are going to do is spread their market share over seven days, and therefore they are not going to be gaining market share. They are not going to be increasing their sales, but at the same time they are going to drive up their overhead. In fact, in a lot of cases it is not so much their overhead but the hours they have to give. They are working longer for the same amount of money, if you like.

In fact, if you go back and look at *The State of Small Business*, 1988, which was done by the Ontario government, you will find that the number two deterrent to growth in small business in Ontario is government-imposed paperwork. In fact, a lot of small business people are currently using Sunday to do their paperwork, to file their tax returns, to file their goods and services tax returns, to file their provincial sales tax returns, and all the other rules and regulations that are coming down and are a tremendous burden upon the small business person.

One of the things they are telling you is, "If you take away my seventh day, all of a sudden you are making me work some night to do the same work." It is really a hardship to a lot of them. We did a survey back in 1987, and I have given you a copy of the results of that survey, which indicated that when it comes to retailers, about 80% of those in the Peterborough area were opposed to having seven-days-a-week shopping.

However, if you look at the larger retailers, it is a little different situation. Obviously, larger retailers staying open on Sunday have the potential of increasing their market share by taking business away from those who are not open. They also have the flexibility of moving staff around so that, in fact, they do not really drive up their overheads considerably. With those two things taken into consideration, and added to that, the possibility of some tourism business in virtually every community in Ontario, it is not surprising that some of the larger retailers, on the other hand, are in favour of opening it up.

There is another thing that you have look at as well as that. The Ontario Chamber of Commerce spent a great deal of time on this in 1988 at Waterloo at our annual convention. We found across the province, almost unanimously, the kind of results that I have told you were coming forward. It was not just the religious groups, and it was not just labour; it was the small retailers who were also opposed to Sunday shopping—with a notable exception, and that was the border communities.

I am sure you have heard—or if you have not, you will—from Sault Ste Marie, from Cornwall, from Windsor, from Sarnia, from Niagara Falls, and they all say, "We have to stay open to compete." Obviously, although we are taking a look at it from the small business/big business point of view, there are also regional differences; and we have regional differences here too. Tourism is important to our local economy. We have something like 11,000 or 12,000 seasonal residences here. Those people come up on the weekend, and if we do not grab them on the weekend, they are going to be gone forever.

There is obviously an opportunity, then, for business people to increase their market share by tapping into some of that business. Obviously some business people would like to do that. So there is a tourism-related and geographically related kind of difference that does come up.

In spite of that, a number of years ago the Ontario Chamber of Commerce passed a resolution, which you also have a copy of. Essentially they were asking for three things.

They said, first of all, we have to have uniform legislation across the province. We do not think it should be left to the municipalities to decide. The second thing is, they

suggested that we reinforce Sunday as a common day of rest. And the third thing was that the Ontario government be consistent in its legislation on whether Sunday is a holiday in both the Retail Business Holidays Act and the Employment Standards Act. Obviously, one has to go hand in hand with the other.

There are some people in the hospitality business who are getting concerned all of a sudden, those who are running hotels, restaurants and so on. I am not quite sure whether they should be concerned because we are hearing back from our local MPP's office that they are not included in this legislation. All I would suggest is that if they are not included, that is fine; but if they are implicated, either through the Sunday retail business act or through the labour legislation that might accompany it, obviously they have a right to be concerned about it.

I am sure you have heard this before, but there are some jobs where working on Sundays or working evenings or whatever goes with the territory. If you go to work for General Motors on the line, the chances are you are not going to work days to start. If you go to work as a policeman or a fireman or whatever and you say you do not want to work Sundays, I think you will have a bit of a problem.

People in the hospitality business explain that to their employees up front. I think most of them are pretty straightforward, saying that they are going to have to be working on Saturdays and Sundays. That is a key part to the whole thing. Obviously, you have to take a look at the hospitality business separately if they are in any way implicated in the legislation.

As I suggested before, we think the labour legislation has to coincide with the business legislation. Where exemptions are going to occur, whether it be through tourism exemptions or whatever—it might be through the type of business they are in—obviously the two have to go hand in hand. I do not think it is as simple as paying a premium or whatever. The two have to go hand in hand. You cannot have people calling you up on Friday night to say, "I am sorry, I am not going to come in on Sunday" and essentially closing you down.

Chambers of commerce, and visitors and convention bureaus and so on were, of course, included in the proposed legislation in that we would be somehow implicated in deciding whether a tourism exemption would apply in our area.

We have a problem with that for a couple of reasons. One was that nobody came to talk to us about it first, and I think you have been made aware of that through the Ontario Chamber of Commerce. But the other part of it is that we are not set up to handle individual applications. In our community, if we have 2,500 businesses, we could essentially be going through 2,500 applications. I do not think anybody is set up to handle that.

I tried to see whether the Ontario government has been involved in anything that would be similar to this and how they handled it before. I came to think about the way business improvement areas are set up. If you are not familiar with BIAs, the way you go about setting up a BIA is you have to have a plebiscite, if you like, a vote; and I believe the way the wording goes is that if you do not have more

than one third of the taxpayers in that community objecting, then you can form a BIA.

There are different ways of wording that, of course, but the one-third/two-thirds kind of majority rule makes a lot of sense to me, in that for the one third who may not be in agreement with forming a BIA, which would imply that they would have to pay extra business taxes towards that association, it is going to be imposed upon them.

1550

I think that when we come to setting up tourism exemptions, if in fact we are going to do that—and I think you are going to have to come to do that if you are going to be dealing with cross-border shopping and if you are going to be dealing with places like Lakefield, just north of here, which has a lot of seasonal traffic. They probably only want to open on Sundays up there from May through until September, but I think you will find there would be a lot of business people who would like to do that. If you are going to do that, I would suggest you fall back to your BIA legislation, take a look at that as perhaps a model you could draw upon, and therefore you could go forth in the province with uniform legislation, but it would be voted upon by the people who are actually being affected, rather than being done by the legislators, as was proposed here a few minutes ago.

The final thing I would like to say is that one of the points that has been made relative to Sunday shopping is that it is going to create employment for a lot of part-time people, young people and so on. I am sure many of you have studied some of the things that David Foot has been saying over the last few years. For those of you who may not be aware of David Foot, he is a professor at the University of Toronto specializing in demographics. According to David, one of the biggest problems we are going to be facing in the 1990s and into the year 2000 is the fact that we do not have the young people coming along and in fact we are going to have a shortage of those kinds of people to work in McDonald's and a lot of other businesses. That being the case, I do not think we can particularly rely on them to fill that gap. That is another problem we have, something I noted that was mentioned in favour of not having that common day legislation.

In summary, I would suggest very strongly that you have to look at the geographic components; you have to look at how you are going to include a tourism exemption, if you are going to do that; the hospitality sector, I really believe, should be exempted both from the Retail Business Holidays Act and also from any labour legislation that might coincide with that, because you cannot have one without the other; and perhaps look at the BIA model as a method of setting things up. I guess those are my suggestions to you today.

The Chair: Thank you very much, Mr Frise. On a personal note, I believe in my own family, on the Drummond side, there has been a general store in this town—my great-uncle Duncan Drummond was the last one here—I think over 100 years.

Mr Sorbara: The suggestions that our witness makes are I think in the main very valuable, but I just offer you

one small piece of counsel. The effect of paralleling holidays under the Employment Standards Act and under the Retail Business Holidays Act would have the effect, if you adopted the Retail Business Holidays Act into the Employment Standards Act, of making every Sunday in Ontario a holiday for the purposes of the workplace and would require employers to pay a minimum of time and a half for every Sunday worked and would add huge burdens to the payrolls of many employers. It may be a good thing to do, but I just want to let you know that the reason there are differences is because, on the one hand, under the Employment Standards Act, holidays are for the purpose of providing employees, workers, with time and a half or the right to have the day off. Under the Retail Business Holidays Act, holidays are defined for the purpose of determining which stores shall and shall not stay open.

This debate has been going on for a very long time. Do you believe that there was ever a time in the province of Ontario when there was a common pause day?

Mr Frise: Yes, I do. I remember it.

Mr Sorbara: When was it?

Mr Frise: Certainly when I was young there was nothing open on Sundays at all.

Mr Sorbara: Were you young in 1950?

Mr Frise: Yes.

Mr Sorbara: I am just going to read you a quotation that perhaps argues with your view that there was a common pause day then. In March 1950 the then Premier Leslie Frost, during the debate on amendments to the Lord's Day (Ontario) Act, said as follows:

"I do not think, Mr Speaker, anything could be more flexible than that to meet the great requirements and varying conditions in this province. It is strictly democratic. The matter is placed in the hands of the people themselves and in the absolute control of their elected councils." He was talking about municipal councils. "There is nothing 'wide open' about this act. It does nothing to induce any community to change its pattern of life. It enables the people to settle their own affairs in their own way."

At that time, those who were opposing the Lord's Day Act suggested that there would be wide-open something or other. It was not stores, because stores were not included. It was not movie theatres. It was not concerts. It was boat rentals, cigarette stands, hot dogs, souvenirs, rides and planes and Sunday excursions, and that was it.

Do you not think there might be a time when we could actually bring this debate to an end in Ontario and have the provincial government just recede from the business of trying to make choices for people on Sunday?

Mr Frise: Yes, I think that is exactly what I suggested you do by going to a local vote among those people who are directly affected. But what you would have to decide is what size of geographic area might qualify and just how you would go about doing that.

Mr Sorbara: What about the entire province?

Mr Frise: Getting back to your original question, I grew up in west Toronto, and if you are familiar with west Toronto, it is the only place in Ontario that is still dry.

Mr Sorbara: You are still pausing there.

Mr Frise: Yes. In 1950 my dad still worked a half-day on Saturday and the banks were still open then, so some things have changed, others have not. Yes, it would be nice if we could get on with this and we could settle some of the other issues that are perhaps more pressing, but then if I lived in Sault Ste Marie or Windsor or Sarnia, perhaps I would tell you that this is one of the most pressing issues. Yes, I think that there is a way of doing it, and I have given you one suggestion as to how I think you might go about doing that.

Mr Daigeler: If I am not mistaken, your chamber is the first one in this round of hearings that is arguing against the Sunday shopping. The other chambers said that they perhaps were opposed some two years ago when we, the Liberals, brought in our legislation, but now they have changed their mind and really think the municipal option is the way to go. Certainly my own municipality and the regional municipality in Ottawa-Carleton said so. Yesterday in Kingston they said the same thing. They acknowledged that there has been a change among their own members based on the experience they have had with Sunday shopping and in fact it has not forced everybody to stay open. Have you observed a change here in your own chamber as well?

Second, do you have any objections that these other chambers take a different stand from your own? In other words, do you think now, some two years later, that the municipal option, in your opinion, is still wrong?

Mr Frise: I still think the municipal option is an incorrect one and I think that if you got chambers of commerce together from across Ontario, they would support that with a very large majority. I think they are looking for uniform legislation. Now, there has to be some provision for geographic differences, and there also has to be provision there for matters related to tourism, but it has to be enforceable. As I understand it, the real problem under the legislation that was in place in 1950 was that it was not enforceable. Obviously, if you do not have laws that are enforceable, they are not worth the paper they are printed on.

Mr Sorbara: There was not very much open in 1950.

Mr Frise: No. Anyway, I think you would still find that.

The second thing is that, as I pointed out, I think you find that there is a dichotomy. It depends on who you talk to whether they are in favour or whether they are not in favour, and it breaks down to small business versus some members of large business—not all, but some—

Mr Daigeler: That is not what we heard, though.

Mr Frise: Well, what happened in Ottawa just a few weeks ago, when they tried to extend the store hours? I understand they got very upset in the business community because they did not want to have them extended.

Mr Daigeler: That is right, but they still supported the right for others to stay open if they wanted to, and really, the chamber in Ottawa is made up mostly of smaller retailers.

Mr Frise: But I think you find that there is that dichotomy and it depends on who you talk to. Again, I would suggest you put it back in the hands of the people

who are doing it. You do not go out and ask the consumers whether you should have Sunday shopping. It is nothing to them. They would like to shop 24 hours a day, seven days a week, and if you could stretch it to eight, they would go for that too.

Mr Carr: Thank you very much for your presentation. Some of the other chambers when they came before us brought statistics about their members, saying 80% wanted it. Some of them had it broken down into retail. They said a certain percentage of retailers do not and so on. I was just wondering how you are fixed. What are your thoughts on that, if you have had any breakdown of any formal—

Mr Frise: When all the surveying was being done back in 1987—remember, in the last four or five years this is probably about, what, the third or fourth go-round with this one. We could go out and survey our members again, and we may find that some of them have changed, but we do not have the feeling that they have changed significantly in Peterborough from where they were back then.

But at that time I was in Oshawa, and the survey we did was a little different there. We actually asked the type of business they were in. Essentially, what we found was exactly what I have told you, that the retailers in particular were the ones who were against the Sunday shopping. Those who were most in favour were those who were in the hospitality business, which made a lot of sense, because if I am operating a hotel or a restaurant, if I had people coming downtown to shop, the chances are I am going to get more people into my restaurant, and if I have opportunities for people to shop and do things, I am probably going to have more people staying in my hotel. So it would make sense to me that the people who would be most in favour of that would be them.

The second group that was in favour of it was those who were in manufacturing. Again, if you think about General Motors and so on, on shift work, working virtually seven days a week, although I think there is a little bit of a break in there on the weekend, it would make a lot of sense not only, again, to have seven-day-a-week shopping but also 24-hour shopping, because it would be most convenient to people working on a shift. So those were the two that were in favour and the retailers were essentially against.

1600

Mr Carr: I can see what you mean about doing it, because if every time we have a committee go round here you did a poll on it, you would be doing nothing but polls, because we have done this quite a number of times. However, I think what has happened is that there has been a major shift. I did not sit on the committee the time before, but they said there has been a bit of a shift with even the population, and of course those are some of the statistics we got from some of the polls. It is still very close, you know, 50-50, depending upon regions and areas, but there has been a big shift, and I was just wondering. You seemed to be saying that even though the province may have shifted a bit, your membership would probably be the same as in 1988.

Mr Frise: I would suggest it would be the same as in 1987 and 1988. There is another thing, of course. There are

all kinds of variables you can look at here. The other variable is, look at the strength of the economy. When surveys were done in 1987 and 1988, we were riding on a crest of consumerism and it was really not a big problem getting orders. The biggest problem was trying to find staff to get the orders out the door. Things have changed considerably, and I would suggest that as you look at a community, the less the strength of the local economy, probably the more preference there would be for people to have the option to open. But remember that we do go in cycles, and if I am correct in analysing that aspect of it, when the economy starts picking up, the same people who are in favour of seven-day-a-week shopping are going to be opposed to it within a year or two.

Mr Carr: What do you see happening—

Mr Daigeler: Another round of hearings.

Mr Carr: That is right, another round of hearings. If the legislation remains the same, what do you see happening in the province of Ontario? Do you see Sunday shopping?

Mr Frise: I do not think we are going to solve any problems. I mean, you have given us in this proposed legislation some of the things we were asking for back in 1988. You have given us uniform legislation across the province. I guess you are linking some of the labour legislation to the retail hours act, but the trouble is that you are not doing it in a way that we can work with it and live with it and compete in a North American or global economy, so what you end up doing is just putting another millstone around the neck of business and another inducement to pack up your bags and move somewhere else. So you are not solving any problems at all. You would be probably just as well to leave the legislation the way it is right now as to change it to what you are going to.

Mr Carr: Thank you. Just for the record.

Mr Mills: Thank you, Mr Frise, for your presentation. We have gone around in different locations and we have heard from different chambers about their involvement in the letter of support for the tourist criteria. Apparently, it seems to be quite a sore issue with the chamber. I was just wondering if you have a position on this or not, and do you see your chamber having a role in this process of support for a particular application to a council?

Mr Frise: Most people are probably not aware that chambers of commerce are incorporated under the Boards of Trade Act. It is a very old act and we have some very strange powers. For instance, we can set grain weighers in different communities, and they still do that in Halifax. I do not know whether it is honorary or whether it is factual, but they do it. The other thing we can do is, if we are asked by two parties, we can actually do binding arbitration. I do not know what gives us the God-given right to do that, but we can do that. So on the one hand, in the past obviously chambers of commerce have done some strange things, and that probably would just be another thing that we would put in our grab-bag.

On the other hand, I do not think that at the present time we are really set up to handle it the way the legislation is proposed. If we have 2,500 applications coming forward saying, "We would like to open on Sunday," I do

not know how we would handle that. In fact, we have already had a couple of telephone calls saying, "We want to be the first in line." I do not really think we are set up to handle that.

In all honesty I think what has happened here is that the chambers of commerce across the province—and we represent something like 65,000 businesses in the provinces—are pleased that we would be named in that. I would hope that indicates that you recognize we do serve as the voice of business. Where the error was perhaps made was that there should have been dialogue beforehand and it should have been done with consultation as opposed to by decree.

The Chair: Thank you very much, Mr Frise, for a very interesting presentation.

FAMILY COALITION PARTY OF ONTARIO

The Chair: We now have a delegation from the Family Coalition Party of Ontario, Mr David Switzer, the president of the local riding association, and Mr Jim Terry, who is the secretary for that association. As you have observed, we have approximately half an hour. That time would be divided between your presentation and questions which the committee members may have for you. I should also mention that unfortunately there was a problem with the photocopier, so the copy of the presentation is not presently ready. It should be ready for committee members tomorrow morning.

Mr Switzer: The Family Coalition Party of Ontario, in its policy resolution 01.9 pertaining to Sunday shopping, states, "Whereas the FCP believes that it is essential that the entire family as a group spend time together, and whereas Sunday is the traditional Canadian day of rest, resolved that wide-open Sunday shopping be prohibited." We believe we must defend and promote the family unit as the fundamental building block of relationships in our society. Strong families lessen marital separation, child abuse, teenage pregnancies, runaways, school dropouts and vandalism. Strong family ties and stable relationships are economically and socially beneficial, leading to fewer cases of single parents, better job stability, more productive members of society and decreased welfare costs.

We believe the control of Sunday as a common pause day for the vast majority of workers and employers is and should remain solely a matter of provincial jurisdiction. The right to enjoy the highest quality of life for as many citizens as possible should be protected by their provincial government. We are concerned that more and more people in our communities will be under increased pressure to work on Sundays if strong legislation is not passed giving us Sunday as a common pause day. Sunday is the only day many people have to spend time with their families and friends, for leisure time and for worship.

We should all be made aware that a wide-open Sunday shopping policy in any community will have its serious ripple effects. Sunday work for police and security forces will be increased as Sunday becomes just another business day; transit systems will have to provide extra employees on the job; child care operators will face extra pressure to offer seven-day service; maintenance and delivery personnel

will be called upon to serve clients whose needs will not wait until Monday.

Wide-open Sunday shopping will lead to across-the-board increases on most consumer goods. Most retailers and their trade associations estimate their increase will amount to a range of 6% to 9%. The reasons are clear: the added cost of heating, air-conditioning, lighting, security, training full- and part-time staff, etc. All this will not increase profits substantially because the average consumer will spend very little more of his hard-earned dollars in seven days than in six. Those price increases will be passed on to the consumers, and those hurt the most by wide-open Sunday shopping will be the poor and those on lower incomes.

At a time when the demands on human energy and the competition of industry and commerce have taken their toll on society, we need more than ever before a common pause day for our province. Without the common pause day the psychological, physical and spiritual life of our communities will be undermined. We have heard it said that if a person has strong religious reasons for not working on Sunday, he or she would be exempted. But if one employee is allowed an exemption from Sunday work simply on the basis of his or her religious convictions and another is not allowed an exemption because he is not religious, religion then becomes a source of resentment between employees.

Wide-open Sunday shopping would have a very serious effect upon those retail employees who hold responsibilities in religious services on Sunday. Sunday school superintendents, ushers, choir members and other holders of church offices may find it too stressful to maintain these responsibilities early Sunday morning and then rush off to work for the rest of the day.

1610

Mr Terry: As we approach Canada's problems, I am concerned about two groups of Canadians. One group is like the individual who refuses to have an examination because he suspects he has cancer. He blindly says, "Canada has no problems," or "Don't worry, Canada has always come through." The second group says: "Well, what can I do? It's just me and it's too late now anyway." If your house were burning, you would want to know about it so you could grab a bucket of water and put it out. The purpose of this paper is to tell you that your house, Canada, is burning and to give you several buckets of water so you can help douse the flames.

The fire that is burning Canada started much like you boil a bullfrog. You do not boil a bullfrog by throwing him in boiling water, because he will pop out faster than you can pop him in. You put him in cold water and turn on the heat. As the water gets warm, the bullfrog relaxes and takes a nap. You know the rest of the story: He wakes up dead. He has been boiled to death. The Sunday shopping issue, like the abortion issue, is but an insidious manifestation of a complex malignancy gently lulling us to sleep as it destroys Canada.

Until January 1988, Sunday shopping was not an issue. The province was in control with the Retail Business Holidays Act, which provided a level playing field in fairness

to stores and store employees alike. Earlier, an all-party committee report supported by the Liberal government stated: "The committee supports the principle of a common pause day. Legislation should therefore be structured to support the maintenance of a day of rest." Contrarily, however, they brought in laws which abrogated provincial responsibility for one common law pause day and passed that responsibility to the municipalities, resulting in utter chaos around Ontario. A lower court ruled the Liberals' law invalid, resulting in the Supreme Court of Ontario having to rule on the law's constitutionality. In the meantime, confusion reigned supreme. Since there was no law, all stores were opened at will.

The New Testament book of Matthew 12:1-14 gives insight into why the Pharisees were offended by Jesus. First his disciples picked grain on the Sabbath, something forbidden by the Pharisees. A provocative healing on the Sabbath followed. Jesus accused the Pharisees of caring more for the letter of the law than the spirit, so much so that they showed more concern for animal life than human. The importance of this for Canadians is that to preserve the faith of our Judaeo-Christian heritage, it is imperative we maintain the spirit of the Sabbath without being legalistic. We all are aware that there are certain areas of employment where work on Sundays is necessary, such as hospitals and police stations. However, giving carte blanche to furriers and department stores, etc, is excessive abuse of the Sabbath.

Jesus said in Mark 2:27, "The Sabbath was made for man, not man for the Sabbath." Therefore I say to you that it is a time for families to cherish and to share with each other, creating stronger community and family values, not an ever-advancing consumerism which in this case is not even good economics. When the municipalities, retailers' unions, retail workers, faith communities and business associations appeared before the committee hearings on Sunday shopping, 90% were opposed to the Liberal government's plans. Can Ontario's businesses open and run on 10% of their staff?

Premier Bob Rae promised the promotion and protection of an essential foundation stone of our heritage and our future, the family, when he said, "We will provide a common pause day to help strengthen family and community life while protecting small business and the rights of workers."

One thing all of us can do and even must do is sell the beauty and sanctity of the family as the fundamental building block of a nation. Historically, 88 civilizations have risen to dominance in world history. Some rose quickly, some rose slowly, but without exception they all fell in one generation, and each one fell after the family unit was destroyed. In every case the pattern was the same: a relaxing of moral standards which led to pornography, followed by promiscuity, adultery, abortion and finally homosexuality. Surely Canada, if properly alerted, can learn from the 88 examples which preceded us. Complacency can kill.

Mr Switzer: In conclusion, the New Democratic Party of Ontario has promised us, "We will provide a common pause day to help strengthen family and community life while protecting small business and the rights of workers." We encourage the Liberal Party of Ontario and the Progressive

Conservative Party of Ontario to give their total support to the New Democratic government in enacting this legislation.

We urge our government to introduce effective amendments to the Retail Business Holidays Act that will guarantee a common pause day across Ontario. Remember, government has the fundamental obligation to protect and promote the wellbeing of the family and family members through measures of political, economic, social and juridical character which aim at consolidating the unity and stability of the family so that it can exercise its specific function.

You have heard the old saying, "The family that prays together stays together." Let's encourage families to pray together, worship together and stay together by giving us a common pause day. There are surely values and traditions in every society worth holding on to. We trust that this committee's present hearings will confirm that the Sunday tradition is one of these.

Mr Daigeler: I have perhaps a response and a question. The response is that you mentioned that the Liberal legislation resulted in chaos across the province regarding the shopping issue. That is not really what we heard in this round of hearings; in fact, rather the opposite. Repeatedly, people said they opposed the legislation some two years ago, but with the experience they have now had, they have changed their minds and feel that the municipal option is the best way to go. In other words, if an area wants to stay closed, it should have that right, and if another area wants to stay open, it should have that right as well.

My question is, does your party have affiliates in Alberta and British Columbia? If so, are you aware of what their position is in these two provinces that actually have Sunday shopping?

Mr Terry: I believe, and I may be corrected, that British Columbia has just started an FCP association there. I do not know what their policies are at this time because it is fairly new, and I do not know if Alberta has an association or not. I do not think so.

1620

Mr Carr: As we have gone across the province—in fact we even heard today from the Indians who believe there will be Sunday shopping in this province as a result of this legislation. We have heard from Windsor, which is already going to be open, Collingwood is going to be open, Thunder Bay, Kenora. It is very clear that under this present legislation there will be Sunday shopping in this province. It is just a matter of how much, whether it will be 70%, 30%, 20%. We can all debate on that, but there will be Sunday shopping.

I was curious. You say you like this bill and what the NDP has done, yet on the other hand, everybody is saying there will be Sunday shopping as a result of it. I wonder if you see Sunday shopping as a result of this bill.

Mr Terry: Dave, you might want to carry on with this, but I just want to make one comment. I do not think either one of us said—and I do not mean this derogatorily—that we did like what the NDP is doing. What we said was we liked the statement that was made by Premier Bob Rae where he said he wanted to bring in a common pause day.

Mr Carr: So do you see Sunday shopping in this province as a result of this bill?

Mr Switzer: I am hoping that when you draft the bill—I have not read the bill closely enough to determine just exactly what you say there, but I am definitely opposed to Sunday shopping. I feel if business cannot make a go of it on a six-day week—and a lot of them are open several evenings a week. I think there is something wrong, with all those hours in a week, if you cannot make a go of business.

Mr Carr: They say the reason they will be open is they will take the tourist exemptions, which are so broad that any part of the province could classify under that. That is what will be happening and it will have a snowball effect when next door is open. So just in case you have not followed the debate, that is what a lot of people are saying will be happening. Only time will tell.

I guess what you are saying then, just to clarify it, you would like to see the province not give the municipalities the option to opt out with things like tourism criteria.

Mr Switzer: I was thinking, when the gentleman from the chamber was here talking about exemptions for tourist areas—I am not sure that allowing tourist areas to stay open Sunday is right either. I know this has been done for several years now. I know some of the tourist area people would not be very happy about what I am going to say, but I feel they should be able to make a go of their business in six days like everybody else, no matter where they are. This would probably plug one loophole that you are talking about. Maybe we should not make any exemptions for tourist areas. I would strongly lean that way.

Mr Carr: What about some of the things that are open now? One of the criticisms has been that stadiums are open, movie theatres and so on. Would you like to see them closed down as a result too?

Mr Switzer: As far as movie theatres are concerned, yes, I would like to see them closed. As far as your stadiums where you have baseball, that might be a difficult thing to close down because of the schedule that these teams are on.

Mr Kormos: I come from down in Niagara, from a small town there, where the churches and their clergy play a leadership role in the community and among the families they serve. That may be a little bit different from downtown Toronto. I suspect it is. Some polling has indicated that support for Sunday shopping might tend to be higher in bigger cities than it is in communities like Peterborough, I suppose, or Welland and Thorold where I come from. Does that ring true with you? Should we be letting big cities and the standards of big cities, most of Ontario being small-town and rural, dictate how the rest of the province lives and indeed dictating the fibre or the character of the rest of the province?

Mr Terry: My short answer to that would be no. The long answer, of course, is more complicated than that, as we have already heard from two previous submissions. I thought very highly of the two previous submissions. They were very interesting. I guess I was looking at my own and wishing I had done as much research, but then I do not have as much access to the information as they did. It was

extremely interesting, and it is a more complicated issue than just a flat answer of no. But I would say no, that the big cities should not be dictating what Ontario as a whole does.

The Chair: Thank you, gentlemen, a very interesting presentation. Also, I should mention the fact our schedule has changed. The marine association is not appearing.

TESTIMONY OF WITNESS

The Chair: We now have on the floor a sort of double-barrelled resolution. Mr Sorbara, could you read it again or say it again?

Mr Morrow: Just one thing before we move on to Mr Sorbara's motion. Can we please thank the city of Peterborough for having us here?

The Chair: Yes, you are quite right. I apologize, as our discussion will not interest many of the participants here locally as much as the interesting presentations that local people have made. I think we have all found this to be a very interesting day with a range of exciting and different ideas, and we would like to thank the city of Peterborough for hosting our deliberations.

Mr Sorbara: Earlier during in camera session, I had put forward a couple of motions. I agreed at that time to withdraw them and put them forward after the hearings today and in open session. On reflection, I think probably it is preferable that we discuss these motions and these matters in open session.

With the permission of the committee, I propose to put both of the motions forward, although it may well be that the proper order is to have only one motion before the committee at a time. I will take the direction of the Chair on that matter. Copies of the motions are being forwarded and if it is the Chair's wish or the committee's wish, we could deal with them one at a time, but because both of them are intimately related, I thought I would just proceed to read both of them into the record and then we could have a discussion of the motions, and then the appropriate votes.

The first motion reads as follows:

"Whereas on Tuesday, August 13 this committee heard testimony from one Warren Kennedy of Local 175/633 of the UFCW, that is, the United Food and Commercial Workers, that the executive board of that union had considered a motion to withhold money from the NDP until the issue of Sunday shopping was settled; and "Whereas Mr Kennedy testified: 'We are not going to give any more donations until this got settled. That is an indication to you, Mr Carr, of how big an issue it would be and I would sure think that the NDP would be listening as well. It's a big issue'; and "Whereas Mr Kennedy later testified: 'I just said that was brought up at our executive board meeting. It was voted down, the issue about money for the NDP'; and "Whereas it may be contrary to the Criminal Code to hold out the promise of any favour or benefit or the withholding therefore to any elected representative in return for the promotion, advocacy or passage of any law in Canada;

"I move that the transcript of Mr Kennedy before this committee on August 13, 1991, be forwarded to the Attorney General of Ontario for the purpose of an investigation and determination by a crown law officer as to whether the

evidence of Mr Kennedy indicates the commission of an offence under laws relating to the integrity of members of the Legislature or the inappropriate influencing thereof, arising in this case in conjunction with the Legislature's consideration of legislation relating to Sunday shopping."

That is the motion asking for reference to the Attorney General. That is the first motion.

1630

The second motion recites, on page 1 of the documents that I have distributed, the same recitals that are on page 1 of the first motion, so I will not read those into the record again. I will just note that I am quoting from the testimony of Mr Kennedy in two paragraphs.

The third clause states as follows:

"Whereas the testimony of Mr Kennedy suggests that a threat to withdraw financial support to members of the Legislature through the funding of the NDP was made or that serious consideration was given to making such a threat; and

"Whereas any such threat to give or withhold a benefit in conjunction with the members' consideration of matters before the House represents a violation of the privileges of the members of the House;

"I move that the matters arising out of the testimony of Mr Warren Kennedy on August 13, 1991, be referred to the Speaker on the basis that the privileges of members may have been violated by the threat to withhold the benefit to the NDP or the withholding of a benefit to the NDP in conjunction with the Legislature's consideration of legislation relating to Sunday shopping."

The Chair: Mr Sorbara moves that whereas on Tuesday August 13—

Interjections: Dispense.

The Chair: Thank you. You are proposing that we debate both motions at the same time.

Mr Sorbara: With the indulgence of the committee, I am not sure if that is permitted, but with unanimous consent, we can do that.

The Chair: We can certainly permit it, but they will be voted on separately.

Mr Sorbara: I frankly was shocked yesterday when I heard the testimony that I heard, that a trade union, which was directly involved in the outcome of legislation, would even be considering that it should withhold what appears to be a regular pattern of contributing money to a political party on the basis of a particular piece of legislation.

I think that in Canada, as in Ontario, all citizens and all organizations have the right to make political contributions. But that has to be done within the context of the laws of this country and this province.

My understanding of the law is that it is against the law to do that or indeed to threaten to do that, that is, to give a benefit or withhold a benefit that would otherwise be given in conjunction with a particular piece of legislation.

I appreciate that after a brief consultation with Pearl MacKay, who has been auditing these hearings throughout our public hearings and who is also the research and education director, as I understand it, of the United Food and

Commercial Workers, Mr Kennedy went on to insist that the motion to withhold money was voted down.

I would like to say that I completely accept that testimony but, to tell you the truth, I do not think I or this committee should be the judge of that. My instinct is to take Mr Kennedy at his word, although I do not know the implications of even considering such a motion at the executive board of a trade union. I do not think we, as a committee, can stand in judgement of that activity, but I want to tell my friends on this committee that from what I have heard I take it seriously, and it is a serious matter, particularly if there was a determination to stop giving them money, as was suggested in Mr Kennedy's testimony and as appears on the transcript of that testimony.

I would like to get this matter out of this committee and get it before the people and the bodies that are charged in our society with dealing with those sorts of allegations and the possibility that such conduct is against the laws of Canada.

There are two entities: the crown law officers and the Speaker. The Speaker of the House, who is in charge of the Legislative Assembly and charged with upholding the privileges of members, ought to investigate this matter. He ought to investigate the matter because if the New Democratic Party is feeling the threat of donations not being made to its coffers because it is not passing legislation that is acceptable to the trade union movement, that means that it is operating on this committee under a threat. That, I think, affects my very privileges as a member to have a full and open discussion of legislation in matters of public policy.

Second, if a threat to withhold money or the withholding of money had been made by a trade union in conjunction with a particular piece of legislation, I believe that violates the Criminal Code of Canada. The appropriate body to investigate that is obviously the Attorney General's office and a crown law officer of the province in particular. My expectation, and frankly my hope, is that there is nothing to it, that it was a friendly little chat at an executive board meeting of a trade union and it goes no further than that. I tell my friends in the New Democratic Party I mean that in all sincerity.

But I hope at this point because of the suggestion of wrongdoing that they can support this motion so we can get it off our agenda and get back to doing what we are supposed to be doing as a committee, holding public hearings on Bill 115 and later to consider that bill clause by clause. So I urge them not to simply treat this thing lightly or as a matter of politics but to consider it as a serious matter arising from testimony made before this committee. And I urge them to support the motion so the appropriate bodies can consider the real nature of what happened with that local and with that executive board and whether money was withheld, or there was a threat of withholding money in conjunction with our consideration of this bill.

Mr Carr: I will be very brief. I will be supporting both motions, or the motion if they are together. My concern is the perception out there. As I look at it now, the real part that bothered me was not the beginning part, it was where he emphatically said, "I would sure think that the NDP would be listening as well."

The trouble I have now is that if the legislation is changed in support of the ideas that are brought forward, the perception could be that the threat was there and that is why the legislation was changed. It puts, quite frankly, the government members in a very difficult position, because now if they do not change it they may have to—how should I say?—overcompensate and take a look at it because they do not want to be accused of buckling in to pressure because of some perceptions out there. I am concerned about what the perceptions will be.

From a legal standpoint, not being a lawyer, I would not like to comment whether it has broken any laws. Obviously, by having the Attorney General's office look at it, they will be able to tell us. The same with the Speaker, to see if any of the matters have breached privileges. I think it is a very unfortunate incident. I do not think Mr Kennedy, originally when it came out, wanted to let it be known, but now that it is out, I think in order to—I use the term—clear the air, I would like to see it investigated by both the Speaker and the Attorney General. I will be supporting the motion, and if this is voted down I will request both individuals to take a look at the matter anyway.

Mr Morrow: At this point I would like to call the question.

The Chair: The question is called. All in favour—

Mr Morrow: Is this motion 1 first up?

The Chair: We have to vote on the motions separately, although we are debating them together.

Mr Morrow: One at a time.

The Chair: Are we calling for the question on the first motion, then? Request for a recorded vote. All in favour of the question being put?

Mr Morrow: The question is put.

The Chair: We are all in favour of the question being put, then? Okay.

The committee divided on Mr Sorbara's motion, which was negated on the following vote:

Ayes—4

Carr, Daigeler, Poirier, Sorbara.

Nays—6

Fletcher, Klopp, Kormos, Lessard, Mills, Morrow.

The Chair: The second motion, is that to be put now?

Mr Morrow: I would call the question on motion 2.

The Chair: It is agreed. Recorded vote as well. All in favour of the motion?

The committee divided on Mr Sorbara's motion, which was negated on the following vote:

Ayes—4

Carr, Daigeler, Poirier, Sorbara.

Nays—6

Fletcher, Klopp, Kormos, Lessard, Mills, Morrow.

Mr Morrow: Seeing that both motions are through, I would now like to put a motion on the floor.

The Chair: Mr Morrow moves that:

Whereas transcripts of these proceedings are public; and,

Whereas Mr Sorbara has expressed interest in the transcripts of statements by certain persons having appeared before this committee;

Be it moved that the clerk cause to be prepared with the greatest dispatch any transcripts that Mr Sorbara may request so that he may provide them to whatever authorities he considers appropriate.

Discussion?

Mr Daigeler: I am not quite sure why a member of the government would, for Mr Sorbara, put forward a request. If Mr Sorbara wants the Hansard he can certainly ask for it. In fact, we all get it.

The Chair: I would certainly agree with you, Mr Daigeler. Perhaps Mr Morrow can amplify on that.

Mr Sorbara: Can I just speak to his motion?

The Chair: Mr Morrow should speak to his motion first.

Mr Morrow: I really think the motion speaks for itself. We are being very open. You want what you want; we do not have a problem with that. You want to put it to whoever you want to put it; by all means go ahead.

Mr Sorbara: I do not have any sort of problem supporting that motion. I do not need any additional transcripts. I am satisfied with the service we are getting from Hansard. I am disappointed that I cannot get the support of the New Democratic Party, the government members of this committee, on my motions. To simply respond by way of saying, "You can do whatever you want with it," suggests that we do not have a common cause in upholding or seeing that the laws of the province and the country are upheld. But I do not have anything further to say on Mr Morrow's motion. Let's put that question. We can vote on it. I do not think we need a recorded vote. After that I have one further motion to put.

Mr Kormos: I suggest we have no interest in your witchhunt. Sorry, Mr Chair.

The Chair: Do we have other people wishing to speak on this motion?

Mr Kormos: Yes. It is just incredible that Mr Sorbara, who clearly has aspirations beyond this committee's work, would call upon this committee to even consider the motions that he did. If Mr Sorbara thinks somebody has committed a crime, then he can do what he thinks is appropriate. He, as a man of some talents, if not many, is quite capable of reporting whatever he wishes to the Attorney General, to the Solicitor General, to the local police, to the RCMP, as he deems appropriate. If he has concerns or suspicions, so be it.

The fact is that it would appear, or could appear to some that the committee members who did not support his very upsetting and, in my view, inappropriate motions do not want to engage in the Salem-like pursuits he prefers. The fact remains that this committee is eager, clearly, for the motion put by Mr Morrow, to provide Mr Sorbara with as much assistance as he may require in pursuing avenues he may regard as appropriate. The fact is, the balance of the committee may not regard them as appropriate. That is

called democracy. Mr Sorbara does not like that. That is too bad, so sad.

1640

The Chair: Mr Sorbara, then Mr Fletcher.

Mr Sorbara: Mr Chairman, I do not mind the gratuitous insults from my friend the member for Welland-Thorold. His reputation in the province is well known. Just let me say I do not hide the fact that I am seeking leadership of my party. I take offence, though, at one thing. Let me just advise my friends, the New Democratic Party members of this committee, if I could ever get their attention, that last night on a radio station in Kingston there was a report which said, "NDP members charge Sorbara using public or legislative funds to further his leadership campaign."

Mr Fletcher: Come on.

Mr Sorbara: I am quoting, my friend, and I do not know if it is the NDP members of this committee or NDP members over at the hearings. I am not accusing anyone of anything. What I am saying to the members of this committee is that if I have the correct gist of that report, those remarks are libellous, offensive and untrue.

I am trying to arrange to get a transcript, but the tone of Mr Kormos's remarks today in light of my motion suggest that somehow my conduct here and my raising of these motions has something to do other than with the procedure in this committee. I just want to assure him that is not the case. I will be aggressively pursuing high standards in this committee, in the testimony before this committee and in the province long after I lose the leadership race or, indeed, if I win it. That has nothing to do with the way I participate in this committee and I want to assure you, Mr Chairman, that I will continue to do that. I will continue to aggressively question witnesses. I will continue to raise matters. I will continue to fulfil my obligations as an elected MPP as I see fit.

During the same time, over the course of the next few months, I will continue to pursue the leadership of my party. There is nothing shameful or wrong about that. The practice of politics is not, in my view, unseemly. For any New Democratic Party member, a member in the broader sense, or a card-carrying member, without a shred of evidence to suggest I would use legislative funds to further my quest for the leadership of the party is simply offensive.

These are remarks I have been told were made. I will be trying to acquire a copy of the transcript of that radio broadcast and report further to this committee because I have raised it with this committee. If it turns out the report is accurate then obviously I have to pursue the source of that information.

But let me assure you once again that the raising of these motions and the putting of these motions before this committee has absolutely nothing to do with my own aspirations within the Ontario Liberal Party or, indeed, my own views on the legislation we are considering. I have said before and I will repeat again, my views on Bill 115 have not yet fully crystallized. We are still in the middle of public hearings. In each case, when a witness is before us, I choose to question and often I choose to question aggressively. I think, as an MPP, that is my right, sir.

The Chair: We have Mr Fletcher and Mr Daigeler in front of us. It is not my right to limit debate on issues such as this. On the other hand, I hope we can resolve this issue fairly soon. Tempers seem to be heated about it. Please, Mr Fletcher and then Mr Daigeler.

Mr Fletcher: Thank you, Mr Chair. The purpose of this committee is to examine the draft legislation and listen to the submissions from the people who come before us. It is not to send evidence given by a person to the Attorney General. I do not know if it is contrary to the Criminal Code and I cannot support that because I do not know.

Mr Sorbara: Neither do I.

Mr Fletcher: If a member who is a witness says something, I cannot dispute it or anything else. Let it go and let the person who objects the most send it there.

Mr Carr said if those motions did not pass he would do it himself. I support that and I support the right of Mr Sorbara to do that. But if a person from the Ontario Chamber of Commerce were to sit there and say, "If this legislation passes we are not going to donate to the New Democratic Party, and we passed that at one of our meetings," where am I supposed to go then? Witnesses can say what they want; we do not put words into their mouths. Just because a witness who testifies before this committee says something does not mean the members of this committee or the members of the governing party are doing anything wrong. I have a real problem with this committee, whose job it is to listen to people making representation, getting involved with a witchhunt, and basically that is the way I see it also.

I cannot support those motions but I can support the right of each individual member to do as he sees he should be doing. I can support that. Thank you.

The Chair: Thank you, Mr Fletcher. Mr Daigeler, then Mr Carr.

1650

Mr Daigeler: I must say I am very disappointed that the government members have not agreed to investigate what may or may not have been an inappropriate action by either individuals or a group of individuals. We are not taking a stand that anything improper has occurred. We want this investigated. I think that was very clear in the motion by Mr Sorbara.

It is being argued by the government members that this could be done by any individual member of the committee. Certainly it could be, but the testimony was given as part of a public hearing in front of a three-party legislative committee, as part of an official record recorded by Hansard, and I think we as legislators therefore have an obligation to investigate that, bring it to the attention of the appropriate authorities as a committee, because if in fact what was said occurred, it may well be, as Mr Sorbara said—and we are not saying that it was—a very improper act and very improper for the political process in this province. I think that is a very important point.

Mr Kormos: He can do whatever he likes.

The Chair: Gentlemen, could we allow Mr Daigeler to finish, please?

Mr Kormos: I am sorry, Mr Chairman. My apologies.

Mr Daigeler: In fact, I remember that when Mr Kormos was speaking to the car insurance bill in the Legislature he very often very gratuitously alleged from the opposition benches these kinds of things that we want to be looked into, and now he is opposed to having this matter at least looked at by the appropriate authorities. I am very surprised and very disappointed that the other members of his party would have followed his lead in voting down these particular motions.

Mr Carr: The point I wanted to make for the government members is that now it has come out and the allegations made, I think it would have been important if the committee as a whole—there would have been more weight behind it had the government members been a part of it, because if that had happened, then it would have taken the partisan issue out of it. My feeling on the issue would have been that now it is out in the open, had the government members of the NDP caucus said, "It's an unfortunate situation, but to clear the air and to get it out and that we are not affected by it, we'll be a part of sending it over to either the Attorney General or the Speaker." What we have now is something where somebody has said something and the government members are choosing not to send it off. That is now what we are dealing with, regardless of the legal situation. It is the perception out there, the perception that somebody said something in order to influence a particular party on how it may decide and then that party goes along and does not want to have it investigated.

To try to be as non-partisan as I can with this, looking at it, I thought one of the things this new government would do when it came in was end this type of partisan bickering. It has not in fact ended. There are the same wranglings to defend the positions. I will only say to the government members that you do not defend the position by not having it looked into, that you would defend the position more clearly had it been open and looked at. If the Speaker or the Attorney General came back and said, "No privileges have been breached and there are no charges," then it would have cleared the air. But to try and vote not to have them look at it I think just perpetuates the feeling out there, which is that politicians quite often do things to protect their own special interests. Hopefully that will help the debate. Thank you very much for the birthday cake.

Mr Mills: I would like to speak a few words in an absolutely unpartisan manner, absolutely unpartisan. I sit there and I apply some degree, I hope, of common sense. To me it just seems to be an awful storm in a teacup. I really think so. After all, the fellow said, "Now that I've got everybody's attention." I take that in a different view than perhaps some people do here. Then he said, "It was just brought up at our executive board meeting and it was voted down." What are we talking about here? Commonsense-wise, what are we talking about? It was voted down.

I would have a very different position here in my role as a parliamentarian if in fact it was not voted down. I try to speak as unpartisanly as I can, but since it was voted down, where are we going with this? You have caucus meetings, as we do, and there all kinds of things that are

put forward and voted down. Is everything that is brought forward under such total scrutiny? I hope not.

Mr Poirier: I just want indicated for the record that I voted for this in a thoroughly non-partisan sense and I echo Mr Mills's concern. I sincerely hope it is a tempest in a teapot. I will be the most relieved person along with him. I just know that if some supporters of mine whom I knew or did not know came up to me and made that type of statement—and when I say this, I make no parallel to what was asked to be looked into—I would be extremely furious and I would be extremely upset and I would definitely look into it, because this is not the type of pressure that I would like to work under.

The type of statement by the Attorney General and the Speaker you asked for might be very handy for me to know in the future, should something like that happen to me personally, and I sincerely hope we will get a green light from both authorities. I will be very relieved and I think the party that is in question would also be even more relieved than I am. But I want it on the record that my support has nothing to do with who is presenting the motion and which party is involved on one side of the table or the other. I just want this looked into and get an expert's judgement on this. I am not the expert to look into this. Thank you, Mr Chair, for giving me the opportunity to put that into the record.

Mr Sorbara: I have another comment. I too, Mr Chairman, hope this is a tempest in a teapot. However, you, sir, and the government members have to at least try to appreciate what it looks like from this side of the room.

Let's just review what has happened over here over the course of the past weeks of these hearings. Pearl MacKay has been auditing these hearings up until yesterday. She was with us every single day. Now, during the course of our hearings each day, there was an ongoing relationship between Ms MacKay, who is a paid employee of the United Food and Commercial Workers, and the New Democratic Party. Periodically, Mr Morrow would consult with her. Periodically, Mr Fletcher—

Mr Morrow: What are we debating?

Mr Fletcher: You spoke with her yourself.

The Chair: Could we have order?

Mr Sorbara: Periodically, Mr Fletcher would speak with her. Periodically, Ms MacKay would pass notes to any number of the New Democratic Party members.

When Mr Kennedy made the initial statement, right after that, Ms MacKay got up from her seat in the audience, went up to him and whispered in his ear, and then we got the balance of the testimony. It may well be that she was just saying: "Look, remember that we just brought it up and it was voted down. Get that on the record." That may be, but there is clearly a relationship between the New Democratic Party, the United Food and Commercial Workers, Ms MacKay and Mr Kennedy.

All I would like is to have someone, other than politicians who are ill-equipped to investigate this sort of thing, to make the investigations and report back to us. That is all I am asking. I think it is shameful that those members over there will not accept the motion to have the Attorney Gen-

eral look at it and the Speaker look at it, but I accept that and I have nothing further to say on these motions.

Mr Morrow: My motion speaks for itself. There is no question about that. The original two motions did not even need to be presented. You can just ask those things. So let's move to my motion, please. Okay?

Interjection: I want a recorded vote.

The Chair: Are we ready to vote? There has been a request for a recorded vote.

The committee divided on Mr Morrow's motion, which was agreed to on the following vote:

Ayes-10

Carr, Daigeler, Fletcher, Klopp, Kormos, Lessard, Mills, Morrow, Poirier, Sorbara.

Nays-0

Mr Carr: We finally agree on something.
Interjection.

Mr Sorbara: I move that the bill be withdrawn.

The Chair: You are not going to debate that one, are you, Greg?

I move that we adjourn until 9:30 tomorrow in committee room 1.

The committee adjourned at 1701.

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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Chair: White, Drummond (Durham Centre NDP)
Vice-Chair: Morrow, Mark (Wentworth East NDP)
 Carr, Gary (Oakville South PC)
 Chiarelli, Robert (Ottawa West L)
 Fletcher, Derek (Guelph NDP)
 Gigantes, Evelyn (Ottawa Centre NDP)
 Harnick, Charles (Willowdale PC)
 Mathysen, Irene (Middlesex NDP)
 Mills, Gordon (Durham East NDP)
 Poirier, Jean (Prescott and Russell L)
 Sorbara, Gregory S. (York Centre L)
 Winninger, David (London South NDP)

Substitutions:

Jordan, Leo (Lanark-Renfrew PC) for Mr Harnick
 Klopp, Paul (Huron NDP) for Ms Gigantes
 Kormos, Peter (Welland-Thorold NDP) for Mr Winninger
 Lessard, Wayne (Windsor-Walkerville NDP) for Mrs Mathysen

Clerk: Freedman, Lisa

Staff: Campbell, Elaine, Research Officer, Legislative Research Service



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First Session, 35th Parliament

Official Report of Debates (Hansard)

Thursday 15 August 1991

Standing committee on administration of justice

Retail Business Establishments
Statute Law Amendment Act, 1991

Assemblée législative de l'Ontario

Première session, 35^e législature

Journal des débats (Hansard)

Le jeudi 15 août 1991

Comité permanent de l'administration de la justice

Loi de 1991 modifiant des lois
en ce qui concerne
les établissements de commerce
de détail

Chair: Drummond White
Clerk: Lisa Freedman

Président : Drummond White
Greffier : Lisa Freedman



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday 15 August 1991

The committee met at 0933 in committee room 1.

RETAIL BUSINESS ESTABLISHMENTS STATUTE LAW AMENDMENT ACT, 1991

LOI DE 1991 MODIFIANT DES LOIS EN CE QUI CONCERNE LES ÉTABLISSEMENTS DE COMMERCE DE DÉTAIL

Resuming consideration of Bill 115, An Act to amend the Retail Business Holidays Act and the Employment Standards Act in respect of the opening of retail business establishments and employment in them.

Reprise de l'étude du projet de loi 115, Loi modifiant la Loi sur les jours fériés dans le commerce de détail et la Loi sur les normes d'emploi en ce qui concerne l'ouverture des établissements de commerce de détail et l'emploi dans ces établissements.

MINISTRY OF THE SOLICITOR GENERAL

The Chair: Good morning. I would like to call the meeting of the standing committee on administration of justice to order. We are having hearings regarding Bill 115, and our first witness and presenter this morning is the Honourable Allan Pilkey, the Solicitor General. Thank you. If you could join us, please, sir. We have about half an hour with the minister, which I think was arranged at the last minute about a week or so ago. I am sure the minister will have some comments and we will have the opportunity to pose questions to him.

Mr Elston: Mr Chair, is he here in his capacity as Minister of Correctional Services?

The Chair: No, he is here in his capacity as Solicitor General—

Hon Mr Pilkey: I could be, with questions like that, Mr Chairman.

The Chair: —and the minister responsible for this legislation, Mr Elston.

If you could, as well, introduce your colleagues. Ms Scarfone has been with us before, but your other colleague we do not know.

Hon Mr Pilkey: Thank you very much, Mr Chairman, first of all, for your kind introduction. It is a pleasure to be here before the committee this morning. Joining me this morning is Jill Hutcheon, the director of the policy branch of the Solicitor General's department, and Janet Scarfone, legal counsel to the ministry. As you can see, I have just had the opportunity to meet my colleagues very recently as well, because of the new position, but I certainly welcome their support and I think they may be able to assist in some greater detail beyond that which I am able to bring you here this morning, particularly in the technical area.

Members of the committee, as the new Solicitor General I appreciate the opportunity, as I said, of appearing here this morning on your public hearings with respect to Bill 115.

I want to say at the beginning that I fully support this bill, which amends the Retail Business Holidays Act and the Employment Standards Act.

Common pause day legislation is fundamentally about enriching the community life of all Ontarians and ensuring that as many people as practically possible can take advantage of the benefits of a common pause day to pursue individual and family activities. A common pause day for Ontario has long been the subject of debate. As this committee has heard in thoughtful presentations all across this province, there will always be a strong divergence of opinion on this particular issue. You have heard presentations from both sides and from those who desire compromise. Many of these presentations, I understand, have gone well beyond the comments on Bill 115 itself.

I think it is important to remember that the province has already held hearings on the Retail Business Holidays Act and that the constitutional validity of this act has recently been confirmed. It has been confirmed by the highest court in this province. What these hearings are about is Bill 115. Bill 115 contains amendments to the Retail Business Holidays Act and to the Employment Standards Act.

At the time of the Court of Appeal decision in March of this year, which reinstated the Retail Business Holidays Act as the law of the land, we pledged to present amendments to existing legislation to improve its effectiveness in the provision of a common pause day for Ontario. We believe that Bill 115 affirms and strengthens our commitment as stated in the throne speech last November. We welcome and encourage public discussion on how to best bring this about, but the principle of a common pause day, in my view, is not up for negotiation.

There are two other principles essential to the intent of Bill 115. One is that the tourism industry must be protected and, as well, promoted. The other is that retail workers must be protected against being forced to work on Sundays or other statutory holidays. These principles, rather, underscore this government's concern for balancing economic interests on the one hand with the rights and needs of individual workers on the other.

The tourism provision is a key component of Bill 115 and the tourism industry is a cornerstone of our provincial economy. Tourism supports the common pause day principle by encouraging recreational pursuits that help improve the quality of life in this province. The provincial tourism criteria are reinforced through the municipalities' vital role in this process. This ensures that the tourism exemptions will be applied with consistency and fairness while meeting the needs of individual communities.

As a former mayor, I say very proudly, of the city of Oshawa I understand the value of provincial standards. They assure all municipalities that they are operating on a level playing field. At the same time, however, each municipality

has the power to meet its own needs for the promotion of tourism within the overall criteria.

The labour-related aspects of Bill 115 indicate clearly that the bill is about Sunday working, not Sunday shopping. I would remind the committee that Sunday shopping requires people to work, yet a good many of those same people who want unrestricted Sunday shopping would strongly resist any suggestion that they themselves work on Sunday. The provisions of Bill 115 that improve the rights of retail workers require our support because many of those who work in our retail establishments are unorganized and unprotected.

Bill 115 is designed to strengthen existing legislation and help make it more effective in achieving the primary goal, that of providing Ontarians with a weekly common pause day. We recognize that Ontario is still suffering from the effects of the recession; however, unrestricted days of operation for retail stores, in my view, is not a cure-all for this broader concern and situation.

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The principle of a common pause day is of long-term importance and, just like the hard-working people of Ontario, it will survive these economic difficulties. One might attempt to demonstrate with numbers that impulse spending increases when shopping opportunities increase. You can also show with other numbers that in a recession the total number of consumer dollars spent decreases. However, the principles upon which a common pause day are based do not ebb and flow. They remain constant in any economic climate. They are key components in our society, and they are worth protecting, they are worth promoting and they are worth holding.

As I said at the beginning, this is an issue that has proven to be difficult and challenging and I suspect it will always be so, but our government is dealing with it in as fair and open a manner as possible. By taking a balanced approach, we believe we have demonstrated leadership on this particular issue. While the principles of the legislation—a common pause day, support for the tourism industry and improved worker protection—will remain intact, I know that you are receiving a lot of valuable and insightful input from the public on how we can best bring these principles into effect.

I would like to remind you that retail workers in Ontario are not second-class citizens. They should not be subject to pressures to work while others enjoy time with their families or pursue personal interests. They certainly should not be required to give up their day of rest to provide others with unrestricted shopping opportunities.

This bill improves and reinforces the Retail Business Holidays Act and the Employment Standards Act to promote a common pause day that Ontarians can share in. This cuts across aspects of income and geography and is therefore important to all Ontarians. Our commitment to a common pause day is long-standing and it is a commitment that as a government we are proud to make good on.

I would like to thank all of the committee members for the opportunity of being here today. I know that you have spent a tremendous number of hours in your consultative process. It has been, I am sure, a very arduous task for all

of you individually and collectively, but on behalf of the government we want to indicate our appreciation for everyone's involvement, regardless of his or her particular stance on the position.

As I indicated before, a very important matter in the view of our party and of the Ontario government is that Ontarians collectively enjoy this very meaningful circumstance of at least one common pause day out of this otherwise very difficult and busy lifestyle that we all lead.

The Chair: Thank you, Minister. We have approximately five minutes per caucus for questions. Mr Daigeler.

Mr Elston: That should help us all understand this better.

Mr Daigeler: Thank you very much, Mr Chairman, and welcome, Minister, in your new position as Solicitor General. Quite frankly, I would have hoped for a very different response from you that would have, in my opinion, augured better in your new responsibility, because I am not sure why we held these hearings when I now hear your response, which seems to indicate a very closed mind. At every step of the hearings your parliamentary assistant said, "We're here to listen, and be assured that your presentation and your thoughts will be taken into careful consideration." When I hear your words, Minister, I do not know whether you have been briefed at all on what was presented to us, because there has been a very large movement out there saying: "Leave the legislation the way it is. The municipal option really is working well. There are many areas in the province that want to stay closed and they should have that right, and there are many areas in the province that want to stay open and they should have that right as well."

Moreover, there has been rather strong discussion about this idea of a common pause day. While there has been support for a day of rest, there was also a very clear indication that the common pause day is being challenged because of the work that is being done in many other sectors of the Ontario economy, and that if we are really keen on the common pause day, then we should at least work on expanding that common pause day into other sectors, not just the retail sector.

I would then have expected, since you make that strong commitment towards a common pause day, some indication from you that you will also work with, let's say, industry, with commerce and so on, with the hospitality sector, to broaden the availability of a common pause day there.

Finally, also, many of the municipalities clearly said that this process of the establishment of the tourism exemption is a very cumbersome one and they would much prefer the general approach that was provided in the Liberal legislation, and therefore again, it should be left alone as it is. So I am really wondering whether you have been briefed and I certainly hope, if we do continue the hearings, that you pay closer attention to what is being said by the witnesses.

Hon Mr Pilkey: I appreciate the question and the comments. I think I would answer you in this way, that I am rather unyielding on the principle that is involved here; but what I am very open to are presentations and suggestions of how Bill 115 can perhaps be improved. We have,

as a government, no monopoly on all the bright ideas that are available throughout this province. I think the work that you yourself and your colleagues and the other committee members have done has in fact been very valuable.

I have been briefed with respect to what you have been hearing, and all of that is going to be considered, and there may well be alterations to this bill as a result of your work. But where you are correct, if there is a suggestion that the principle will be altered from this particular chair, that is not likely to be the case.

The Chair: Thank you, Minister. Mr Elston.

Mr Elston: I want to be a little more basic with the minister and to congratulate him publicly and personally on his ascendancy to the new role of Solicitor General and Minister of Correctional Services. But I wonder if he could tell us what he means by "common pause day." Some of us on the street would say "common" means "the same." "Pause day," I think we can understand: "Step back, sit down, rest, relax." What day do you find in Ontario is the common pause day? What is the common pause day for Ontario that you said you were establishing by this act? Which day?

Hon Mr Pilkey: Sunday.

Mr Elston: There are only seven.

Hon Mr Pilkey: There are only seven. Traditionally, I think if you asked that question of any Ontarian who grew up in Ontario or came to Ontario in the last couple of decades, they would respond to you that, generally speaking, that day would be Sunday.

Mr Elston: In the act itself where does it indicate that Sunday is the common pause day for Ontario. Because that is not enumerated. If that is the principle of the act, I do not know that it is enumerated in any particular place.

Hon Mr Pilkey: There are certain other possibilities with respect to the common pause day which you are probably more familiar with than I.

Mr Elston: So in fact, we do not have a common pause day, but you, as a government, have noted that Sunday is your preferred common pause day. Is that what you are saying, minister?

Hon Mr Pilkey: Sunday apparently is enumerated and that would be consistent with the answer that I gave.

Mr Elston: But it is not the only possibility, you just said. Is that not true?

Hon Mr Pilkey: You asked me, as I understood it—

Mr Elston: What is the common pause day? If the principle of this legislation is one common pause day, I am asking you what is that one day and you are saying, "It is Sunday only."

Hon Mr Pilkey: Yes.

Mr Elston: Exclusively. So under this act there will only be Sunday as a common pause day in Ontario.

Hon Mr Pilkey: There may be—

Mr Elston: For retail workers. I understand the principle that this is applying mostly to retail and tourism, but it is only Sunday you say?

Hon Mr Pilkey: I responded to your primary question when you asked my opinion as to what that day would be perceived to be by most Ontarians, I believe, and I indicated it was Sunday.

Mr Elston: No, I asked you what the act is saying is the common pause day. You said the principle is a common pause day, so what is it?

Hon Mr Pilkey: Perhaps I have not understood your question. I will ask Janet to comment.

Mr Elston: Sure, Janet, if you would. I would be pleased to see what the act says is the only pause day in Ontario.

Ms Scarfone: The Retail Business Holidays Act lists or enumerates a number of holidays in the act to which the closing provisions apply, and enumerated in section 1 of "holiday" is Sunday. A holiday includes Sunday.

Mr Elston: But it is not exclusive. Can I, as a retail business person, have a day other than Sunday, during the week, as my pause day, for business purposes?

Ms Scarfone: There is a provision in the legislation that accommodates those who have other religious beliefs, and that is section 5.

Mr Elston: So in fact, although you speak about the issue of one day when there is a pause for retail workers around the province, with the exception of tourism activities, there are many possibilities. There really is no one common pause day in Ontario, is there, in this act?

Hon Mr Pilkey: I would say that generally there is.

Mr Elston: Well, generally there is not.

Hon Mr Pilkey: Traditionally, that day has been Sunday. I gather the only exemption to it is on certain religious grounds which you are well familiar with.

Mr Elston: And for tourism as well.

Hon Mr Pilkey: I believe that was part of the legislation that your government brought forward and it recognized that circumstance. That is where that came from.

Mr Elston: Fair enough. So how is this more effective than the last? If that is the case, if this is the same as the one before, how is this more effective?

Hon Mr Pilkey: I am simply saying that in this respective particular instance, on the singular question that you raise out of this bill, the exemption to the traditional day, which would be Sunday, would be only on religious grounds. I do not think we are in any disagreement on that point.

Mr Elston: One final question, which will deal with the fact that you have talked about this as improving the effectiveness. When I was going through the briefings—I actually attended and met your policy adviser I guess on a couple of occasions, and others from labour and from tourism, I think it was; and there may have been somebody else—we talked about the effectiveness of enforcing the retail workers' right to refuse. I was asking them how the provisions in this bill were going to be better than the ones before, because your organization in opposition had said that our means of enforcement were going to be totally ineffective. In fact, all you have done is just build on the

same procedure that we had put in place. Can you tell us how this is an improvement?

Hon Mr Pilkey: I just think it reinforces and strengthens it. The principle of worker protection was there before. We are simply adding to it.

Mr Elston: So you really believe you have just strengthened it, but you have not changed the manner in which you are prepared to proceed.

Hon Mr Pilkey: There is an absolute right to refuse under this bill, which I think is an improvement. It enhances it.

Mr Elston: But may not be enforceable.

Hon Mr Pilkey: We believe it will be enforced.

Mr Carr: I also want to congratulate you and I look forward to working with you, as the critic for the Solicitor General. We all work together in a non-partisan manner all the time, of course.

Having travelled around the province, notwithstanding your statement, it is very clear that we will be having Sunday shopping in this province. Collingwood will be open, they tell us, Thunder Bay, Kenora, Sault Ste Marie, parts of Kingston, although North Bay and Sudbury, if my recollection serves me right, said they will not. Notwithstanding what the Premier has said about not being able to take the tourism exemptions, municipalities we have heard from have said, "Thank you very much, we interpret it this way and we are going to be open." As you know, places like Windsor have said, "We are going to take the whole, entire area."

As a result, some of the people we have heard, for example, the United Food and Commercial Workers as recently as yesterday said that your tourism exemptions are a joke, and I am quoting, "makes a joke of the tourism exemptions. I would be very surprised if you can find one municipality in Ontario that does not qualify." In their presentation, Clifford Evans said the same thing: This bill would lead to wide-open Sunday shopping, and as a result, would fail to enshrine the common pause day as intended.

So in spite of your statement here this morning that you are going to have a common pause day, the only question is, is 60% of the province going to be open, 70%, 50%? Very clearly, there will be Sunday shopping. I wanted to see what your thoughts were, what changes you are going to make to ensure that there is a common pause day in this province.

Hon Mr Pilkey: I want to respond to that question basically in a couple of ways. The tourism regulations are set out, and they are intended to be meaningful. When we draw up the regulation with respect to that, I do not believe there will be loopholes present at all, and I think they will be rather clear. They will be rather concise, and they will be enforced.

The question of tourism and how that leads to a percentage of Ontario opening or being open is true, but I believe if we are to maintain tourism as an economic factor, it needs to have that kind of enhanced hours of operation. Second, it builds a bridge to the common pause day in that it provides a wide variety of activities for families and for individuals to enjoy on that common pause day. I do not know if that answers your question completely, but those are—

Mr Carr: The problem is, as you know, that the municipalities are the ones that get to interpret it, and with nobody else to oversee them, what really counts is how they interpret it.

Hon Mr Pilkey: But municipalities will be overseeing. Their input is seen as extremely valuable. We will be providing the provincial regulation, which will be the rule book for them to proceed by. As they, with their own local knowledge, assess the application before them and mirror it against the very concise provincial guidelines, they will make the appropriate decision. But I do not believe the regulations will allow them in any way to be footloose and fancy-free with respect to the interpretation. It would be my hope that they would look at those regulations and apply them in the spirit in which they were intended. If they do not, I think we would be talking to them about that.

Mr Carr: Thank you very much, but since they have handed the ball to us, we are going to be the ones to interpret them. You may lay out the regulations, but you have said we can interpret them, and we will interpret them the way we will. You may have heard the chairman in Toronto, Mr Tonks, saying, "We'll use whatever loopholes we can." He believes there are some in the biggest municipality in this province.

It really does come down to the tourism exemptions. The question I was going to ask is whether you think they are tough enough now or not tough enough or just right. Do you see changing the regulations with the tourism exemption in mind at all?

Hon Mr Pilkey: We are certainly prepared, as a result of the information and the presentations that have been made to the committee, to continue to review the tourism criteria so that when the regulation is ultimately written, it in fact does the job it was originally intended to do. It is my hope and my belief that it will not be in that kind of loose circumstance that one might drive trucks through it, but rather that it will be clear, concise, enforced, and that we will in fact achieve the goal of the common pause day for the vast majority of Ontarians, save and except those in the tourism industry, and save and except those municipalities that have a uniqueness about them, so that, as I indicated, the balance of Ontarians can enjoy the value of that day and the particular benefits of those municipalities.

Mr Carr: As a municipal politician, I know you would never drive a truck through regulations. You know better than that.

Hon Mr Pilkey: Maybe once.

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Mr Lessard: I, too, would like to congratulate you on taking on what is turning out to be a very challenging position. We have been receiving quite a bit of valuable input as to the legislation and the draft regulations as we travelled around the province. Most notably, we have heard quite a bit from chambers of commerce who have told us that they were not really too happy about the role that was intended for them in the draft regulations. They wanted to know whether we were going to be prepared to remove them, because they said they were not regulatory bodies.

They did not have any accountability except to their own members, and it was voluntary membership.

One of the suggestions we received yesterday was to consider as an alternative the model that is used to incorporate business improvement areas, where there has to be approval of a certain number of businesses in a specific area before the business improvement area would be established. I just want to know whether you have any thoughts with respect to that or whether there had been any consideration of that issue.

Hon Mr Pilkey: I think the work of the committee on that particular point has been very valuable in that it has flushed out the concern that the Ontario Chamber of Commerce has. I think it is one that we have to pay very careful attention to.

I think, understandably, the government, or its staff people, may have quite naturally assumed that the Ontario Chamber of Commerce would wish to be very directly involved in these business matters at a provincial level and at a local level, because all of our experience, I am sure, to a person, has always been involved in the chamber, has always heard it said, "We want to be involved in the consultations, we would like to be involved in the discussion." I believe they would ultimately like to be part of the decision-making process.

So there was an assumption here that, given that this was a business matter to deal with tourism and so on, they would welcome this opportunity. They have been heard to say in recent times that perhaps they have not been consulted enough. So irony of ironies on this particular issue, we find that because of a division in their membership, it may not be an item that they would voluntarily wish to receive, this power of regulation.

That point has been made, I understand, before you. I understand the question. I understand their position, and it is certainly therefore a view, in review of your findings of this committee, we are going to have another look at.

The Chair: Mr Fletcher.

Mr Fletcher: Thank you for appearing before us this morning on such short notice, Minister. It is always nice to see your smiling face.

Mr Daigeler: Short? He had three weeks.

Mr Fletcher: Well, that is short notice when you take over a new portfolio.

Travelling around the province, I am not subject to selective hearing, and I tried to hear what everyone was saying. There are a few people who have problems with this piece of legislation, but they came forward with some good ideas. I think there are some definite, positive ideas coming from many of the stakeholders. The chambers of commerce were not only upset with the lack of consultation, but they had some positive suggestions, as my colleague has said, and also the unions and many small retailers who were saying: "We like it. You're in the right direction. A few changes here and there, a little fine-tuning, and this is a great piece of legislation." That is what this committee is for, as you know. It is to listen to what people are saying and to make sure that we do listen to what every person is saying and not just be selective.

I listened to some of the retailers, and one of the things that seems to get in the way is the 7,500-square-foot criterion as far as the opening of the store. Some people are saying we have these massive drugstores that can sell everything under the sun; they have 7,500 square feet or more. But I know from a survey done of Metropolitan Toronto area drugstores that about 75% of the drugstores fall within the 2,500-square-foot to 5,000-square-foot range, so they would be exempt under this piece of legislation.

I know the unions have been asking us to knock down the square footage. I am just wondering, on the square footage—and this may not be a fair question because I know you were not there in the actual drafting of the bill—how did we get to the 7,500-square-foot criterion? It was not just grabbed out of the air, was it?

Hon Mr Pilkey: I guess I could blame some other people for that.

Mr Elston: It is up to you guys to change it. This is your problem. This is your baby.

Hon Mr Pilkey: Yes, and thank you for the problem.

This is not the first time we have heard this concern, which emanated out of legislation brought forward by a previous government. I will be quite interested, in fact, to read the transcripts and to hear in explanatory detail the concerns revolving around that particular issue. I would also be interested in hearing what the committee's view of that issue is after hearing from all of those representations. I think that is about all I can offer you this morning, a commitment to look at those recommendations, to look at those transcripts and those points and to try to assess whether the existing legislation is appropriate or whether it is ready for some amendment. I certainly can pledge to you to review that particular circumstance and to see whether our position will alter on that 7,500-square-foot matter previously adopted by the former government.

Mr Fletcher: Also, this committee will probably be making recommendations.

Just one quick point before I pass on to my colleague Mr Morrow. As we went around the province, we heard about the many flaws in the previous legislation and that this is a step in the right direction, so I am proud of what we are trying to do.

Mr Elston: Mr Chair, I would be prepared to have Mr Morrow ask his question. I do not think there is any reason why we cannot be a little flexible when the minister himself is here.

The Chair: Agreed? Fine. Mr Morrow.

Mr Morrow: I actually have just one really quick question. We were in Ottawa on Monday and heard from a Monsignor Schonenbach about what he believed this legislation is. He made a very good comment that Sunday is for the people. It is showing up that this is obviously a quality-of-life issue for an awful lot of groups. Do you see this as being a family time or being a really family problem, so to speak?

Hon Mr Pilkey: It just seems to me that all of us live very busy lives. There is a variety of interests that one needs to address in establishing or achieving something called quality of life. There is no doubt that economics are

a very key ingredient in our cornerstone of establishing that quality of life. Of course, all of us have continued to pursue trying to enrich the economic circumstance for all people of Ontario.

But there is another side to the ledger. There are always debits and there are always credits. The other side of that ledger, as you indicated, speaks to some period in time when there is a common pause, that individuals or families can do those kinds of things that are of another nature and another element. It appears to me that in this society and in our particular province, that is important. Others may argue it is not important at all. I just happen to think that it is, and this particular legislation provides that. I believe that it will provide for us a better circumstance and a more rounded and balanced situation for the province of Ontario and the people who make it up.

The Chair: Thank you. I think the committee members are very appreciative of your being willing to come and put your own unique stamp on this process.

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CITY OF TORONTO

The Chair: We now have a presentation from the city of Toronto, Dennis Perlin, the city solicitor, and Greg Levine. We have approximately half an hour for your presentation, which can be divided between your presentation and questions from the committee members, which I am sure will be many. Please feel free to start when you are comfortable in doing so, and would you please identify yourselves for the purposes of our recording.

Mr Perlin: My name is Dennis Perlin and with me is Greg Levine. I am the city solicitor for Toronto and Greg is the research solicitor in the legal department of the city.

First, let me thank you very much for the opportunity to appear before you. I believe you previously received a copy of the submission from the city. That was the first part. On Monday evening city council asked me to convey to you a further point that it wished the committee to be aware of and I believe it has been handed out to you. That was that city council was endorsing a particular section of the brief of the Labour Council of Metropolitan Toronto and York Region that was previously presented to you. That was in relation to the criteria and the suggestion that prior to a regulation being passed designating the tourism criteria, a special group of interested parties as set out in the labour council brief be brought together as an advisory committee to try to come forward with criteria that would make the ability of a municipality, at whatever level the municipality passes the bylaw, more restrictive than the present criteria do. That is the first point.

The main thrust of the submission that was sent to you was one that dealt really with the part of the bill that designated the delegation power with respect to the passage of a tourism bylaw to local municipalities in part of the province but not to local municipalities in other parts of the province. This of course, as you know, began with the 1975 legislation. At that time the power to delegate in terms of passing tourism bylaws was given to the regional or metropolitan levels. So those local municipalities within

those levels could not pass bylaws, while local municipalities elsewhere in the province could.

Let me stress, however, very quickly that while the city is asking you to consider, as you now amend the bill this time, changing that and allowing all local municipalities in the province, whatever form of governmental structure they happen to be in, be they in a regional district or the county of Oxford or be they in another county form of government in this province, if you are going to have tourism bylaw designation, that it be handled by local municipalities and not split between regional governments in some parts of the province and local municipalities in the others.

In doing that, we are not saying there is no role for metropolitan or regional or district municipalities or the county of Oxford in the matter of bylaws related to tourism. I will indicate to you a little bit further on where I believe the power already exists for that to happen, regardless of what is done with the Retail Business Holidays Act. If you change the act for all local municipalities, there is still a place and an ability of a regional government to involve itself. We are here because of the confusion and the duplication in process when you start to split that responsibility between the local and regional areas.

You will see in Bill 115, as you well know, that there is a recognition, indeed even in regional setups, that the local municipalities are going to play a role because local municipalities themselves are given the power within the regions to make application to the metropolitan government to have a bylaw passed. So because everyone recognizes that if one applies the criteria with the intent I believe the criteria were put forward, that is, for specific geographic areas, those are going to be within certain areas of the local municipalities.

What is going to happen is that to have those particular geographic areas designated, it will start at the local level; people will come to the local level first. They will make application to the local level and will indeed try to get the local level, if I was representing them, to try to make sure the local level makes application to the regional level and try to get the local council on side. In many parts of this province where regional governments do not have direct election or even in those where they do, it would be wise, I would think, for a particular group of businesses in a particular geographic area to try to get the local government on side.

The city believes there should always be some attempt to try to rationalize these functions and try to make it easy for people to understand what is being done in terms of process. If you leave Bill 115 as it is, then the local level, before a local government itself, will make an application on behalf of a particular area. It will have its own set of hearings, its own set of debates, and then the matter will go to the metropolitan, regional or district level for another set. There could be different decisions. It is very difficult in the municipal area to try to explain to people how one municipal government is doing this and another municipal government, which supposedly is representing the same group, is doing another. It is making it much more complex than it need be.

One wonders why in Guelph the Guelph city council can make the designation, but in Toronto the Toronto city council cannot. There is no way of really explaining that,

frankly. They are both two-tier governments. One is in Wentworth county and the other one happens to be in the Metropolitan region.

Interjection.

Mr Perlin: That is right, Guelph is a separated city, but I still make the point there is no way of really explaining to people in the city of Toronto; or if you are in Oakville, why Guelph city council can pass it or London city council can, but Oakville cannot, nor the city of Toronto.

The other area we think will be more consistent, if you could consider having all local municipalities and not just in those parts of the province without regional government, is when you look at what the local municipalities have to do in regional governments in terms of other analogous situations, such as the Planning Act situation. In the Planning Act it is the local municipality within the regions, and I appreciate Sudbury and Haldimand-Norfolk are two separate issue areas. In all the other areas, the site plan bylaws, community improvement bylaws, which are other areas of planning and development, they are all done at the area municipality. They are not done by the metropolitan or regional government.

It is confusing to have people wondering why certain types of what are really locally oriented types of bylaws have to be done like a tourism bylaw at the regional level and not at the local level. When you get into site plan or community improvement of an urban renewal nature, zoning bylaws themselves, the designation of institutional areas or residential areas, that is done at the local level and not at the regional level.

When I started the presentation, I stressed this is not an attempt to eliminate the role for regional or metropolitan governments. Regional and metropolitan district governments are entitled to have, and do have in most places in this province, official plans. Under Bill 115, even if you were to change it to local municipalities, when you look at section 24 of the Planning Act, there will still be a requirement for bylaws passed by local municipalities to be in conformity with official plans.

If there is a macrotourism issue that is in keeping with the criteria of the government with respect to tourism designation, which is still unique to a particular regional county or district level, the regional level can pass requirements in its official plan and the bylaws at the local level will have to be in conformity. A bylaw passed under this bill would still have to be in conformity with that official plan at the regional level.

So there is an opportunity for the regional government, and what is considered to be an appropriate approach is the macro level of planning. If there is a need for something of a macro level to provide for that in the official plan, any local bylaw would then be passed. That will then allow a business or geographic area to make its application to the local level, have the bylaw designated, if it is in accordance with the tourism criteria and, as always, if it is in conformity with the regional plan.

If there is some doubt as to that—I do not think there is even if you were just to change the local municipalities in Bill 115—the bill could be amended to provide that, subject to section 24 of the Planning Act, all bylaws shall be

passed by local municipalities, if there is a need for that clarification.

We say to you that there still is a positive role for the metropolitan, regional or district levels in the county of Oxford, but that when it gets down to the actual passage of the bylaw there would be a lot less duplication and confusion if it is left to the local municipalities to actually do the passage of the bylaw.

Experience in the city of Toronto, for example, with respect to tourism designations in the past like Harbourfront, Markham Street Village, the shops of the CN Tower—all of those were initiated at the city of Toronto. They did not start at the Metro level. So I say to you this will happen again. There is a way of protecting the regional interest that does not have to be at the basic level of passing a bylaw. Basically, that is one small point among many I know you have to consider.

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The Chair: Thank you, Mr Perlin. We have approximately four minutes per caucus. Mr Poirier.

Mr Poirier: Mr Perlin, I am a logical person and a Capricorn so I can understand you, although I am not a lawyer. There is very much logic to what you are saying, I can understand that, but I remember when we changed the previous law. I will take the example of Ottawa-Carleton, and I would like your feedback on that also. Ottawa-Carleton is an area larger than the GTA; 11 municipalities. I remember, for example, some of the people who would offer services on days where a lot more of the businesses would be open contrary to tradition; for example, in this particular case, if it is going to be tourist areas and tourist businesses.

If a tourist comes to Ottawa-Carleton, Toronto or whatever, that tourist expects to be able to have tourism service wherever. He does not just draw a line because a certain municipality stops here, “I will just limit myself to that side of the street.” A tourist from somewhere else does not give a damn about that.

The perfect example is where OC Transpo—the transport bus service in all of Ottawa-Carleton—said, “Would you please get us to meet with the [previous] Solicitor General so we can sit down and explain to her that it would be a lot better if the regional government made the decision to decide what was open or not, and what was touristic or not in this particular case, so we could make the bus service more uniform, for example, or police, or whatever?”

How would you combine both considerations so that to me it seems a lot more logical? We had changed the law to give the regional government, whether it was open or not on Sunday, for example—how do you combine both of these advantages in the points that you make?

Mr Perlin: The question you are asking gets us into a very fundamental discussion of municipal government in the province and perhaps that should be looked at at this point. But the structure is such right now—having been in Halton, and at one time the chief administrative officer for Halton—that we could argue that for almost every service in this province. When I was at the regional level there were studies about how we could do everything better at the regional level.

Interjection.

Mr Perlin: No, I have seen the light since, having gone back to the local level.

You can say that for a lot of functions in terms of how you designate land. It would be much better if it was just one zoning bylaw and all the designations were done by the regional government instead of the local government.

In terms of building bylaws, it would be much better if every building bylaw—that is one viewpoint. I do not any longer share that viewpoint, having had the experience at both levels. People still look to their local level, they still consider their local level as the form they wish in terms of their government and they really see that, if that is the community they are in, as the government they look to in terms of exercising their local powers.

I do not see why it cannot be done by co-operation, frankly. I do not know if you have to have it imposed on high by a regional council. It seems to me the area municipality should make that determination. That is really part of a local function. We are talking about local geographic areas and if there is a need to achieve, for example, bus service, then leave it to local municipalities through discussions; perhaps indications by the regional service that a regional service can only be provided if certain criteria are met that make it worth while. That is something the local municipalities would have to take into account in each of those municipalities in determining whether they want to designate that day or not. But if they do not, if that is the will of that particular community, then so be it. Other communities that want a different approach will have to work harder on their colleagues in the other local municipalities to see if some change can be made.

I think it can be done through co-operation, but in the end, while we have this form of local government, we are talking about a local matter. It really is a designation of a local area. That, as I understand it, was the intent of the criteria. If you change the whole approach to criteria there might be a different answer, but I am talking about the way the bill is proposed, the intent of the bill when the bill was presented. It is supposed to be geographic areas within municipalities. They will look to the local level.

Mr Poirier: I do not think you and I would want to sit on a co-ordination committee for regional transportation if you have a checkerboard pattern from municipality to municipality within one region. You and I will abstain from sitting on that committee, right?

Mr Perlin: Okay. I agree.

Mr Carr: Good morning. Thank you for the excellent presentation. One of the questions I have is on the tourism criteria. You may have been here when the Solicitor General was here and said that—he was very specific—there are criteria they expect the municipalities to follow. We have also heard municipalities say, as you may have heard me say: “Thank you very much, but we are going to decide. You have given us the power and we are going to interpret the way we want. You have given us carte blanche so keep your nose out of it now.” We have heard a lot of them, at least 50%, maybe even more, say, “We are going to use the tourism criteria.” You may have heard the chairman in

Toronto say, “We will interpret it the way we want and use all the loopholes.”

As a lawyer looking at the tourism criteria, how do you see it? Is it too broad; not broad enough; just right? What are your thoughts on that? I know it is difficult as the solicitor, you cannot talk for yourself.

Mr Perlin: Let me start by saying that the city council's position in Toronto is that the tourism criteria should be made more restrictive in terms of the intention of doing it by geographic area. I have given my opinion to the city, and my opinion is that the way the criteria are now I believe that, yes, Metro itself and any of the area municipalities or local municipalities in this province can, by use of the criteria, pass a bylaw that allows for the opening, for example, of stores on holidays throughout the municipalities. It can do it by just designating the municipalities and areas.

If that is not the intention of the government and this committee, then I would urge you to look very carefully at those criteria—at least the government, I guess, because the government would be the one that would pass the regulation. But right now our opinion is that we could pass a bylaw in the city of Toronto and it designates the entire city.

1030

Mr Carr: That is the problem we have. You have heard the Solicitor General say very clearly one thing and your opinion the other. The only thing I would point out to the parliamentary assistant is that he should maybe make these inconsistencies known to the minister. I know he is new, but he comes in here and says that he thinks they will not be interpreted and we heard very clearly at every stop that they are going to interpret it that way. I guess the only thing I am concerned about is, let's be honest. If your intent is to close down, then let's make it so that is the case, and if it is not, let's come out and tell people.

Mr Perlin: I just want to add that I say my opinion with great trepidation when I come and the Solicitor General has given his opinion, but if it is of any help to him, this one simple lawyer here—he might want to look at it.

Mr Carr: He has lots of legal staff who are very competent. Actually, they travelled with us, and he does have excellent legal opinion. I am sure they will be presenting it, but I just thought also the parliamentary assistant could press it to him that in fact that is not what we have been hearing. They have travelled, so they have heard it as well.

That leads me to the second point that the city of Toronto put down, the recommendation it made about having the new tourism criteria and that the committee of stakeholders be set up. I guess that gets back to one of the other problems I have had, that here we have a provincial government that said: “This is a hot issue. We don't want to touch it; give it off to the municipalities.” Then municipalities say: “It's a hot issue, so you know what? We don't want to have the final decision, so we'll send it off, and then when we say to somebody, ‘Sorry, you can or you can't have it,’ don't worry, there's still going to be this committee that you can go to.” Being a new politician, it just seems that what we have is nothing but a handoff to the next guy and the next guy down the street has to make the decision.

I know it is difficult as a solicitor, because you cannot interpret why the city would pass this, but what is your feeling? Why are we in the situation where the city of Toronto now feels that we have to have another committee that is going to review a decision that the province would not make, which the city may have made, that we want to have checked?

Mr Perlin: I did not interpret the recommendation of the labour council that way. The submission of the labour council, as I am sure you will remember, was that the exemptions were so broad as to effectively restrict no one. To make those criteria more effective, as I understood it before the regulation was passed by the government, they were suggesting that that a group of affected stakeholders, including representatives of retailers' unions and government, come together and make suggestions to the provincial government as to what those criteria would be. I did not see an ongoing committee. I did not hear the actual brief, but when you read their brief, I just saw it as—and that is not an unusual exercise for governments, having some groups come together and make a submission to the government as to what it might want to do when it is enacting regulations.

Mr Carr: We have heard they have had broad consultation with Tourism Ontario and they have already done the consulting, although that flies in the face of the chamber, which says it was not consulted. That is what this whole process is about, to consult, and I just wondered why the city felt that way.

My feeling is that the big problem is that we sometimes use consultation as an excuse for not making a decision on something. I just wondered what your thoughts were, but I know it is difficult as the solicitor, because of course you cannot interpret it and have to work with these people afterwards. I appreciate your help here this morning; you did an excellent job.

Mr Perlin: Thank you very much. I will just say yes.

Mr Fletcher: Thank you for appearing this morning. As far as this piece of legislation is concerned, it is in draft form; we are listening, we know there are some changes that have to be made. Also, the intent of the legislation is twofold: one, it is to provide a common pause day for working people in the retail sector; two, it is to enhance and try to encourage tourism throughout the province.

When I read the motion that city council endorsed, that government must establish a committee of the affected stakeholders, "a new set of viable tourist criteria" is the part I come up with. Is every piece of the tourism criteria flawed, or is some of it good, some of it bad, some of it needs fine-tuning?

Mr Perlin: From just listening to the debate, of course it is always hard to interpret what people actually mean, but when one listens to what was said at council, again, the majority of council were concerned about the criteria not achieving the objectives that you just enunciated. For example, the majority would not want to see a bylaw passed that designated all of the city of Toronto as a tourism area per se and therefore made the city, to use the colloquial expression, wide open.

However, if that was not the objective, it could be more helpful by making the criteria, or the number of criteria that have to be obtained, more restrictive than they are at present. You only have to achieve so many of those criteria, two or more, and if you look at the criteria in the draft regulation, it is very easy for a municipality to meet two of those criteria.

I think council was trying to say, try and make it more clear as to what certain things might mean. In this way it makes it more difficult if one is trying to pass a bylaw to designate.

Obviously, the more restrictive you make the expression in terms of trying to define—and I know sometimes it is very hard to define terms—the more difficult it is for people to simply pass a bylaw in a way that was not the intention, that is, let's say, to provide for a wide-open situation throughout the entire municipality.

Mr Fletcher: The intent of the legislation is not to create a situation where cities can be wide open. In fact, when we were in some cities, they were saying, "No, we don't want Sunday shopping, we're not going to enact Sunday shopping." And again, others were saying, "With these criteria, we can open as much as we want."

As I said, this committee is here to hear some suggestions, and so far the suggestion of a committee to set up the criteria is nice, but does the city have suggestions other than tighten it up? Are there specifics that the city has come up with at all?

Mr Perlin: No. City council has not come forward with any particular criteria.

The Chair: Thank you very much, Mr Perlin, Mr Levine.

1040

CLUB MONACO

The Chair: We now have a presentation from Club Monaco. Sol Nayman is making that presentation. Mr Nayman, we have approximately half an hour. Please divide that time between your presentation and the time for the committee members to pose questions. As I can see, you are making yourself comfortable, getting a glass of water all ready. Please feel free to start when you want to, sir.

Mr Nayman: Good morning, ladies and gentlemen. My name is Sol Nayman. I am the executive vice-president of Club Monaco, a group of concept retail stores serving primarily young men and women with quality casual apparel. I am one of a small group of enterprising Canadians who helped to establish this business some six years ago. From the first store at 401 Queen Street, between Peter and Spadina, we will have grown to 60 stores in Canada, six in the US and five in Japan as well as one in Hong Kong by the end of this year.

Virtually all of our operations are integrated in-house in our Richmond Street premises in the heart of what was once a thriving and proud fashion district. It no longer is so. We do our own design, our own fabric sourcing, our own quality control, pattern-making and product development, with a large segment of our production being handled in Ontario, particularly in Toronto.

I represent this morning, and I am pleased to do so, about 350 employees from our head office and 28 Ontario stores who sincerely trust that you will listen to them and resolve an issue that is unacceptable to them and, I dare say, to so many of your constituents.

I speak to you from an experience base of 35 years in this business, during which time I have witnessed, participated in and at times influenced many evolutionary issues and changes. When I started in retailing, there was little or no evening shopping. During the summer months, for example, stores would open for half a day on Saturdays. There was no shopping on civic holidays and certainly unheard of on Sundays.

What changed that? Very simply, the dynamics of a free market, consumer-driven economy—consumer demand, not legislation. What the consumer wants, the consumer must ultimately get.

Throughout my career, I have based my views, actions and decisions on how they would impact three elements: (1) the consumer; (2) the employee; and (3) the business. Needless to say, all my decisions and activities were carried out in the context of good corporate citizenship and the prevailing laws. When I did not agree with the law, I would do my utmost to influence its change, but never its transgression.

My comments will focus on influencing you to change the law that hundreds of our employees, I, and many others consider to be unfair as well as wrong in the context of the three criteria I named. Permit me to expand.

First, the consumer: There can be absolutely no doubt that in the vast majority of Ontario markets, the majority of people want to, have and will shop on Sundays, as they did over a period of 30 weeks or some seven months last year. They continue to in many markets in Canada, the US and globally.

I can tell you that some of the biggest shopping days ever were recorded on Sundays. Our brief experience in Ontario resulted in about 7 1/2% of total volume being generated on Sundays, even though not all stores were open. In the west, for example, where Sunday shopping has prevailed for many years, the ratio is about 10%.

Many have said that Sunday's volume is simply a transfer of sales from Saturday or other days. This simply is not so. There is a real increment, as our experience in other markets supports. Let me record that when you are not open on Sundays, the other days do not make up for the potential. This is clearly evident now, during the past six weeks, when we were open a year ago. Not one week has exceeded previous years' business in our Ontario stores.

The consumers, young and old, single or in a family unit, poor or affluent, male or female, religious or agnostic, want to shop on Sundays. Many consider shopping a family activity. In our stores on Queen Street or in the Beaches when Sundays were open, we saw many situations where families would attend services in the morning, have a brunch at 11 o'clock and shop in the afternoon. That is a very wholesome lifestyle activity. They want to exercise their free enterprise choice to consume the myriad goods and services that retailers are able to provide. These goods and services are over and above those provided on Sundays by restaurants, amusement parks, taverns, ballparks

and some retail stores which happen to be located in designated tourist areas.

My main focus, obviously, is on the Ontario resident consumer, but we attract numerous visitors from across Canada, the US and other countries who are familiar with our product and who seek our stores on Sundays, only to find them closed. Just walk along Queen Street at Spadina or in the Beaches and you will see scores of Torontonians as well as tourists who cannot exercise their choice to shop in our stores, yet they can buy apparel in the SkyDome, at the CN Tower, at the waterfront and at the hotels near our stores.

How do we exclude the south of Queen Street from tourist designation while across on the north or just a few metres away on Spadina, stores are permitted to be open? How do we exclude the Eaton Centre, where we operate our biggest store, from tourist designation, a centre which in survey after survey has been identified as one of the top tourist attractions of this province?

You will not find a Club Monaco in Buffalo, but if the current situation is not changed, I can assure you that there are scores of landlords who would welcome us with open arms and open Sundays, as we have experienced in California.

I would like to focus on the second aspect, the employee. We employ about 350 people in Ontario, of whom about 70% are female and of whom about 85% are teens to under-30s. A large number of our staff are desperate for every available dollar of income to supplement their cost of living and schooling in the most expensive areas in Canada. For many it is a first-time employment opportunity. For many it is the first entry into the labour force. We train them; we show them how to develop their skills. Some 24 of our 28 stores are situated in Toronto, Ottawa and London, the biggest and costliest student markets in Ontario.

When we opened on Sundays, we had no difficulty whatsoever in attracting staff and supervisors for the extra work. We employed on average about 100 people, which would equate to about 500 working hours each Sunday on average. Sunday closings have unfairly and in our view arbitrarily cut off this critical income for scores of young Canadians, which cannot be replaced with other work because there are simply not enough jobs.

My views represent the consensus of hundreds of employees who have even signed petitions to the Premier to allow Sunday shopping and to provide them with an extra opportunity for work at fair pay without compelling anyone to do so unless they wish to. No one at Club Monaco has ever had to refer to an Employment Standards Act, which we clearly endorse and support, because we have always done more for our employees than any legislation has ever provided in terms of premium wages, in terms of incentives and in terms of staff discounts among other benefits.

Let me comment on our business. Retailing in Ontario is a disaster. Retailers are not bleeding, they are haemorrhaging. We need a tourniquet, not salt on our open wounds. In our fiercely competitive environment, our business cannot survive without every viable avenue for marketing our goods and services. Some 7% to 10% is the proved volume that is generated on Sundays. It could be more if Sunday convenience becomes a constant alternative to cross-border,

mail order, flea markets, street vending and other retail formats which prevail, none of which contribute to your sales tax base, nor are they governed, in many instances, by any acceptable employment standards.

If Sunday shopping restrictions prevail, we are saying no to over 25,000 hours of extra work for young Ontarians and wages and benefits of up to \$250,000 annually. Additionally, we are turning away a capital investment potential of up to \$1 million annually, with virtually the total component of labour and materials impacting Ontario building trades and services. We want to grow, but we will not in this environment. The law in our view is bad, unfair and discriminatory and goes against every progressive direction of a free enterprise society. Let the consumer decide to shop or not to shop. Last year not every store was open, nor would we open every store this Sunday if the law permitted us to, any more than every store is open in the west. If there is enough traffic and demand, we open; if not, we close. We do not decide, the consumer compels our decision.

Permit me a word about a common pause day. I find it totally inconsistent that the province wishes to impose a common pause day on shoppers and retailers, among others, yet is one of the biggest employers of Sunday workers—the police, firefighters, TTC and nurses among others. A common pause day simply cannot exist except in a totalitarian or fundamentalist religious environment. Ontario certainly is not that.

This government said it wants to listen. Please do, and act accordingly, for the only road to economic recovery is through the votes of the consumer. In this case, the votes that they cast in the province's retail stores, hopefully every day, including Sunday. Thank you for your attention. I would be pleased to respond to any questions.

1050

The Chair: We have approximately four minutes per caucus. Mr Daigeler and then Mr Poirier.

Mr Daigeler: Yesterday in Peterborough we heard from the chamber of commerce there that it was opposed to openings on Sunday. I think it accepted the tourism exemptions. We heard the same thing from the chamber in Sudbury. Other chambers, the one in Kingston and in North Bay and in Thunder Bay, were arguing to be open on Sundays. Would you object to that local variation, which could be responded to by what we have now as a law, that is, the municipal option; that if Peterborough wants to stay closed, that is fine, if Kingston wants to be open, that is fine as well? As you can appreciate, at several stops a sort of uniform solution for the province was termed the TBS solution, the Toronto-based solution. I am just wondering how you would react to that and what your view is with regard to the Liberal legislation.

Mr Nayman: My view, Mr Daigeler, is that the market should decide. The market, being the consumer, should decide whether a particular store is open or not. My view is clearly that there should be a level field for all and opportunity to open if business is there. The only entity that can decide that is the consumer. I would have no quarrel with a store in Peterborough being closed if there is

insufficient demand for its goods and services, or a store in Sudbury being opened or closed. Again, it is a market-based decision, not one that should be legislated, because I frankly do not see how fair legislation can emanate when there are so many possible variations. Each community can take on its own stripe and do essentially as it pleases, which may or may not work to the benefit of the consumer. So it is again a marketing-based decision, not one that I feel can be fairly legislated.

Mr Poirier: I think it is impossible to do better to describe the economic situation that we are going through right now. We have been torn because there is no grey zone on this particular dossier, nor have I in my seven years seen too many grey zones about bills and what people feel and think across Ontario. You really see that without Sunday openings, where you think you can increase your markets, the Americans will come in and take benefit of the retail situation here?

Mr Nayman: Absolutely. There is no doubt in my mind, and they will take benefit of it physically, as well as through other channels. We do not have a sense as yet of the scope of mail order business such as Land's End or J. Crew or L. L. Bean, the amount of product that is being shipped into Ontario from mail order operators south of the border. My view simply is, if there is an alternative to that, then the need for that diminishes. We know what is happening in Buffalo. As I said, we could open a dozen stores in Buffalo within a month. That would obviously increase our market share globally, but we have to look at our market share in Ontario, and it is just being decimated.

Mr Poirier: And you have always had a long list of students and people willing to work?

Mr Nayman: Absolutely.

Mr Poirier: Any opposition, any reluctance?

Mr Nayman: Where there is reluctance, it is the individual's prerogative and we certainly would not ever compel anyone to work on a Sunday or a religious holiday or whatever. There is enough of a field available.

Mr Poirier: Have you heard from your other friends, competitors in the market, that it has been a problem with Sunday opening, a resistance, employees whose rights have been affected by store owners pushing it upon them? Have you heard about that from your fellow retailers?

Mr Nayman: I would say that I have heard as much as has been said or written and I can very clearly sympathize with any abuses and I would be totally opposed to any abuses of the employee. There are certainly abusive employers. That is not our position. We have grown because we are a very, very good company to work for and we have always overshot the expectations. To us, minimum wage is not an issue because we have always paid a premium wage, plus premium benefits, plus incentives, plus discounts, etc. There would be a lineup a mile long if we put a sign up, "Sunday work available."

Mr Carr: Thank you for your presentation. As I was sitting here reflecting on it, there is good and bad news from your standpoint. The good news is that the decision really will rest with municipalities and you have another

shot at being open, depending on where your stores are. The bad news, as I read the statement that the minister made not more than half an hour ago or whatever, he says, "One might attempt to demonstrate with numbers" that spending increases "when shopping opportunities increase." He says numbers say that they do not. Then further on, "However, unrestricted days of operation for retail stores is not a cure-all." So, in other words, what he is saying is, he does not believe your statistics that there is economic benefit.

What do you say to the Solicitor General, who says to you, a man who is running a business operation, that he does not believe there is any economic benefit? What do you say to him?

Mr Nayman: What do I say to the minister? What I say to anyone. Count the number of bankruptcies. Just walk up and down any shopping centre, walk up and down any retail street and count the casualties. They are there for many reasons, I dare say. It is not just Sunday shopping exclusively, but we must provide the marketer, regardless of what one's marketing field is, with the opportunity to market its goods and services based on the demand of the market. If the minister wishes any elaboration on the numbers presented I would be more than delighted to do so, but our numbers speak for themselves and I can assure Mr Carr that the numbers can be verified quite easily.

Mr Carr: I do not know if Gord wants to have them for the Solicitor General or not.

Mr Mills: On a point of order, Mr Chairman: I do not think it is quite fair to say that the minister, who was here, did not believe your figures, when in fact he never had a chance to see the figures.

The Chair: That is not a point of order, Mr Mills.

Mr Daigeler: Nice try. You are doing your job, Gord. That is what you are supposed to do.

Mr Carr: They are outside, if you would like to read it, Gord. That is what he says in the statement and anybody who wants to read it, it is there.

The next question I have is this. The situation is such that the tourist exemptions are going to allow the municipalities to open up, and you may be familiar with that.

Mr Nayman: Yes.

Mr Carr: The fight has really moved from here. The fight has now gone to the local level, for whatever reason. What is your feeling about that? I guess from your standpoint, since you want to be open, at least it gives you another shot, but what is your assessment of what will happen in the province? Do you think you will be able to open in most of the areas where you operate now?

Mr Nayman: In my own judgement, it will not make a significant change. The tourist who comes to Ontario does not come with a map of all the open municipalities or all the open streets or why they are open or why they are closed. The tourist clearly comes with a global perspective of wanting to do what a tourist would want to do. My view very simply is, bring down the barriers and let's make it an open market so that the tourist can decide without having guideposts or signposts to determine which side of the

street is tourist and which side is not. There just is not a logical and, in my view, fair base for making those decisions.

1100

Mr Fletcher: Just reading the brief, you have already lost me, because I am not between the ages of 16 and 35. Up until yesterday—

Mr Nayman: I was lost a long time ago, Mr Fletcher.

Mr Poirier: Below that or above that?

Mr Fletcher: A little below the 16 point. In terms of your investment in Ontario, you opened up three new stores. When did you open those up in 1990, do you remember?

Mr Nayman: Yes, clearly, August and October.

Mr Fletcher: Where?

Mr Nayman: One is in Markville Shopping Centre in Markham, one is in Square One in Mississauga and one is in Place d'Orleans in Ottawa.

Mr Fletcher: As far as the old legislation is concerned, Ottawa does not want Sunday shopping and the old legislation that was in place. They could have said no to the Sunday shopping. Would you have kept your store in Ottawa?

Mr Nayman: We opened our stores in Ottawa before there was any Sunday shopping debate. Would we open stores in the future in certain markets where Sunday shopping will not be available? The answer is clearly, yes, we would not.

Mr Fletcher: Again, you are talking about the American intervention into Canadian retailing, the increased pressure from American-owned companies. Whether a city has or has no Sunday shopping, is the competition not the same? Do we not play under the same rules? The American-based, if they go to Ottawa and Ottawa is closed down for Sunday shopping, have to play under the same rules. So there is a level playing field for both you and the American-based corporations.

Mr Nayman: That is a view of reverse thrust marketing. If one stands still I think one simply withers in this business. We are a very high performer, consequently we need more and more opportunities to expand our high level of performance. If those opportunities are diminished then we might stay on par with the marketplace but that is not really our objective. That is why we put more effort into our design, our quality and our product, so we can grow. We do not want to play on a level field in terms of our own initiatives and our own energy, so I do not see that as being a criterion. Marketing has to find its own level. If Ottawa is restricted then a good marketer will determine whether the next opportunity will be in Ottawa or in market B, C or D, where the opportunities might be different.

Mr Fletcher: I grasp what you are saying in a way. What I am getting at is that if Americans move into our marketplace they have to play under the same rules. I am just trying to see where you get the competitive edge for the American companies that invest here, that come here. If they see a market they are going to move into that market; that is the marketplace and it is dictated by the marketplace. They will have to play by the same rules.

Mr Nayman: Clearly so, but as I say, they will try to find the level where they can use their advantages.

Mr Fletcher: And you would also do the same?

Mr Nayman: Precisely.

Mr Fletcher: Right, so as long as it is a level playing field you have no problem with it.

Mr Nayman: However, I would respectfully say that the level playing field is one which generates diminishing returns over time. Costs escalate; costs of supply, distribution, wages, etc, escalate and the marketing thrust has to enable any business to overcome the cost escalation. You cannot just confine everything to a neat, tidy box and say everything is going to remain static, because it will not. There are just too many external pressures.

KEW BEACH RESIDENTS' ASSOCIATION

The Chair: We now have a presentation from the Kew Beach Residents' Association; Ms Karey Shinn. As you have observed, we have about half an hour, probably divided between your presentation and some opportunity for the committee members to pose questions. Please feel free to start when you are comfortable.

Ms Shinn: Hello. My name is Karey Shinn. I am the president of the Kew Beach Residents' Association. I sit on a number of different public organizations. I am a director for a public committee for the greenway from Newcastle to Burlington, and I worked on several other public groups dealing with local and water-based Lake Ontario issues. Our neighbourhood definitely is influenced by what happens on the waterfront. The Kew Beach Residents' Association represents members living in the area between Lake Ontario and Kingston Road, from Woodbine Avenue to Lee Avenue in Toronto's Beach area. The group was founded in 1985 in response to the negative impact of overcommercialization of Queen Street on the community.

Scanning the list of deputants, it looks as if our association is the only local group representing a neighbourhood impacted by this legislation to appear in front of your committee. We also note that of the 18 retail businesses appearing at the Toronto hearings, 6 have stores in our community—this is 30% of the total. Of the two Toronto business improvement areas appearing, one is the Beaches. Furthermore, one person appearing seemingly as an individual, John Winter, is the vice-chairman of the Beaches Business Association, the owner of a firm that by his own recognition helps developers. In his line of work, he actually puts together the complement of businesses to compose retail shopping malls and is a leading proponent of securing tourism designation for the Beach area.

As an organization that is waging an ongoing, uphill struggle to protect our community from rampant commercialization/exploitation and thus ensure it remains a viable, caring and involved neighbourhood, we are telling you at the outset that the regulations made under the Retail Business Holidays Act respecting tourism criteria are threatening the viability and quality of life in many urban residential communities. We are also telling you that these regulations are putting park land in jeopardy, particularly in urban areas. It is a mistake to think this legislation will not have impacts

on planning and development. When Mr Perlin spoke he also appended that at a local level we have official plans and zoning in this. This is going to change what happens, and I am telling you from our experience this is not going to help people living near these type, of places.

As you are probably aware, the Beach has traditionally attracted many visitors from other parts of Toronto, particularly in warm weather, to enjoy its park land, beaches and other free recreation amenities as well as its small-town character within a large metropolis. By and large the community has coped with the considerable stresses brought by the influx of park visitors, including problems associated with crowding, parking, traffic and noise. Believe me, I could go on. However, commercial interests have been exploiting these features and have attempted to turn the area into a year-round, seven-days-a-week shopping destination, claiming that park users are tourists and that they are there because they want to shop. Well, I am sorry.

For a number of years, many stores have been open on Sundays, some illegally and others legally, under the loopholes and exemptions in the previous legislation. As an example, one business that owns four stores in Toronto has declared itself agnostic, with Monday as its religious closing day. This is fine. He does not work on Monday, Tuesday, Wednesday, Thursday, Friday, possibly Saturday. Taking Monday off for him is to enjoy our neighbourhood when it is quiet. We think we also have the same ability anybody in the province has to enjoy our own homes and our community with some type of peace if there is going to be a common pause day.

1110

Businesses cashing in on Sunday has led to a shift in the economics, types and ownership of stores on Queen Street, the local commercial street bisecting the community. Rents have skyrocketed. Locally owned, independent shops selling everyday goods and services to the local community have been displaced by a proliferation of gift, novelty, accessory and casual clothing stores, several under chain or similar operation ownership. People from all over the city and Metropolitan Toronto are now coming to the area for the sole purpose of shopping on Sundays.

I do not believe you need three pairs of earrings and a pair of venetian blinds to jog, hike and swim. So you have a retail business strip developing very much on the model of a mall. I do not know how many handcrafted, Canadian tourist objects you need to go swimming at Summerville pool either, but they do not have any connection with the park. The city parks department does a very good job of providing the rental of sailboards for sailboarding and the things we need for the park.

When commercial interests on Queen Street started lobbying for tourist designations, supporting their demand with the claim that more than 80 shops had gone out of business on Queen Street, the community became quite concerned, as the influx of shoppers on Sundays was putting a serious additional stress on the neighbourhood.

At a public meeting held this spring, which was packed, it was apparent that the vast majority of residents who had no commercial interests on Queen Street were totally opposed to a tourist designation for our area. There

was no question about it. It was also pointed out by a member of the audience that whoever had compiled the list of purported 80 bankrupt businesses did not know the neighbourhood. Some of these things were laughable. The butcher—we would like to see a butcher in our neighbourhood—could not find someone to cut meat for him. He retired. Some of the other places had no interest in being open on Sunday and many of the businesses were restaurants who could be open on Sunday. Once you have five bazillion restaurants competing with each other, there is going to be a limit to how many can survive. On that list was a rather long section of vacant, for-lease and for-rent on one block. This was a new development that was built empty. I am sorry, but no one was ever there, so we cannot say they have gone out of business. That was actually just a speculative thing, and they took down two large chestnut trees to produce the excess condos in the unit, and then they wondered why they had not sold. The majority of those businesses would be occupied again in a few weeks, and what we saw in the early spring in the papers—if you had taken photographs a few weeks later you would have realized that a lot of new businesses are now in those empty spaces.

I would also mention, however, that it appeared a large number of the same people opposing tourist designation were strongly in favour of province-wide Sunday shopping. So we definitely have a strong interest in the Beach area in wide-open Sunday shopping, but it is extremely different and separate from a residential neighbourhood becoming a tourist designation. Unlike the CN Tower or some of the other conventional tourist sights, we live there. It is very different when you happen to live between the retail strip and the park.

In view of the community concerns and of the aggressive, misleading and slick representations of commercial interests, our association presented a brief to the Solicitor General of Ontario. This was done prior to the issuance of the legislation under consideration by the committee. Our paper, *A Residential Neighbourhood Should Not Be a Tourist Designation*, made the following points:

A residential community is also entitled to enjoy the common pause day, which means being free from the stresses brought by commercial activity on that day;

In the case of an area located near or within park land, such as the Beach, Sunday tourist shopping would seriously degrade the park experience, that is, the enjoyment of outdoor activities by the thousands of people from all over the city and Metro who rely on our parks for recreation;

Sunday exemption granted to some specific areas or area within a municipality would be detrimental to other shopping districts within that municipality by shifting a significant proportion of local weekday purchases to the areas open on Sundays.

What I find interesting in this is that in a small town they have a particular tax base and when someone called a tourist comes from another tax base to their tax base, it makes an economic difference. But when we have a large agglomeration of municipalities and Metro is our tax base, it makes no economic difference if there is Sally Blow's shop down in the Beach; she is going to get the business that Joe Doe does not get in another corner of the city. That

to me is less fair than having these little target areas. You are giving the business to special people, basically, not creating a level playing field.

The tourist exemption will not protect small, independent businesses in a large urban area. Instead, large concerns would drive them out through a variety of means, such as the ability to finance higher rents with creative accounting.

We also are faced with chain stores which will have an operating outlet in the Beach. Perhaps they even work at a loss, but it gives them advertising. It is store frontage in a place where there are a lot of people going by, to the park usually.

Our recommendations were: that tourist exemptions should not be granted to retail zones in residential neighbourhoods; that the number of people coming to an area should not be a justifying factor for shopping exemptions; that servicing of tourists, if deemed desirable, should be planned so as not to impact on residential neighbourhoods—we of course have no parking available; the tightening of loopholes regarding size, selling of crafts and religion, so as to prevent abuse.

Something has to be done to tighten up the loopholes if this legislation is going to hold water. We find that the park users who come by bicycle or who stay in the park area do not have the same impact on our residential community. When we had wide-open Sunday shopping, it was mostly used by locals and we did not have the parking problem that we had when people came to our area as one of the few places where many shops opened illegally to encourage people to come on Sundays. So we did notice it made a difference.

It is evident that none of these recommendations was given any consideration in this new legislation.

The regulations regarding tourist areas: These regulations are so vague, so general and so open to interpretation that they will enable practically any city, town, village and hamlet to declare itself a tourist area—and that was what Mr Perlin was saying—therefore effectively implementing province-wide open Sunday shopping, notwithstanding part I, subsection 4(2): "The council in passing a bylaw under subsection (1) shall take into account the principle that holidays should be maintained as common pause days."

The fact is, one is hard put to name one agglomeration that would be unable to meet the two criteria required or rapidly create such conditions by organizing a festival, for instance. They continually do this in the Beach and they know that it is going to have some effect on the outcome.

As you know, a few days ago the mayor of Toronto and the Metro chairman raised that very possibility—they were going to put it on the ballot—and at least to our understanding this would be entirely possible since Toronto as a whole can be considered a geographic area and would easily meet five of the criteria, maybe even all six.

However, considering individual Toronto neighbourhoods or places as geographic areas, also a possibility due to the absence of definition, would generate some interesting issues. For instance, Queen's Park can be a tourist area. I am sure you would love commercialization here. It meets four criteria: It is historical; it has cultural attractions, of course; if you consider the debate, it certainly provides

access to outdoor recreational pursuits and I frequently see the joggers here; and it is certainly the site of numerous special events.

You know, it is very interesting, but under the regulations SkyDome would have a hard time getting an exemption. It is not historical, not natural, not cultural or ethnic, unless American ball players count as ethnic, nor does it provide access to outdoor recreation. Likewise, the CN Tower and even Pearson International Airport may not qualify.

1120

Just to point out how this actually influences things that are happening, I got a letter in the mail the other day from city services, and the CN Tower is on the list for heritage protection. These are criteria. People are going to take them seriously. It was completed in 1974, I believe, when they helicoptered in the top for that thing. It is going to distort a lot of perceptions people have. I find it really quite amazing.

What is very disturbing is that every park in Metropolitan Toronto, from the car-free Leslie Street Spit to High Park to the Rouge Valley to the waterfront greenway that citizens are establishing from Burlington to Newcastle, is endangered by the regulations. I must point out, as one of the directors of this public group we formed, a lot of the greenway area across Metropolitan Toronto, especially the city of Toronto, is a blank, open book right now, and the very last intent of that greenway, from my understanding from the Minister of the Environment, is to put in a strip mall. This is something we have to look at in terms of the use of green space in large urban centres.

All these areas of green space meet the natural attraction and access to outdoor recreation criteria—hiking, biking, all those ones—and it does not take a genius to figure out that commerce will find ways to exploit them. For instance, municipal zoning permitting retail stores is already in place on Leslie Street within a stone's throw of the spit. Park land is already facing enough challenges as it is; adding even the possibility of further exploitation is very irresponsible.

The whole approach of these regulations is flawed. In their intent to recognize that tourist dollars are a very significant contribution to provincial revenues, and in many instances the major or even only source of revenues for some communities, they have overlooked the fact that there is not one but several Ontarios, each with its own circumstances, economics and needs. I would certainly think that Metro is not the same as some small towns.

For instance, it is unlikely that a tourist area in a village in Haliburton will bring significant negative socioeconomic changes, particularly since it is probable that every other village in the area, and in the province, would also pass an exempting bylaw. It is also very unlikely that the outfitter store in Algonquin Park would ever attract enough trade to warrant its transformation into a mall competing with Huntsville Shopping Centre.

I find it interesting too because in the small towns it is the city centre that would become the main tourism area, whereas with the Beach area, this is a small community and it has been a smaller business strip that ran through the centre servicing local interests. It was never designed as a

tourist centre for Metropolitan Toronto or the city of Toronto. We cannot handle it.

On the other hand, in large urban municipalities an exempting bylaw applied to only some retail areas would severely distort economic patterns, with detrimental effects on the remaining commercial districts. Mr Christie, our local Metro councillor, has pointed out that if you tourist-designate Queen Street, the people on Kingston Road are going to be furious. They deal with exactly the same people. Furthermore, due to the large number of Sunday shoppers—meaning big dollars year-round—it is very likely that large concerns would rapidly take over, openly or by other means such as spinoff subsidiaries.

Of course, Bill 115 and the regulations put the ball in the court of municipalities. Having dealt extensively with our municipal government and with judicial bodies, the requirement under part I, subsection 4(6) of the act, "The council shall hold a public hearing before passing the bylaw," does little to make us feel hopeful. The wording is so vague as to be meaningless, and we have experienced several times in the past that any process can be, and often is, subverted.

What happens too many times is that we go out to these meetings, we have done our research, we have done everything and it turns out to be an open house—it is built already. We can go and look at the rooms, maybe we can choose the colour of the wall, but that is it. It does not work. I think it is significant that we are the only resident group that is here, because this will impact on our planning and development. We are the people who live with that planning and development, and this is not a venue that the public has been able to respond to on a purely non-commercial, residential level. I am not part of any religious group or anything like that. This is just the average person going about her average day of life who would like to see her children playing on the front lawn too. This is not that type of thing.

We hope that sharing with you our experience as members of an involved, caring community and as people who take stewardship of park land very seriously has provided you with different valuable insights into the problems Bill 115 and its regulations respecting tourist criteria are likely to create for residents of large urban centres.

We also hope that you will afford serious consideration to our brief and to the following recommendations pertaining to the regulations:

1. That no exemption be granted to business establishments located within one kilometre of park land—defined as any area designated by any government primarily for outdoor leisure and recreation. That would be nearest point to nearest point.

2. Businesses applying for tourist exemptions should have to prove that they indeed service tourists, and "tourist" should be defined. To be eligible for exemptions, business establishments should provide audited evidence that they derive no less than 50% of their total gross incomes from sales to tourists as defined below. This is one of the definitions: The Ministry of Tourism and Recreation definition of "tourist" as a visitor from out of the province or out of the country, or a person who travels 40 kilometres or more, one way from permanent residence, for any period of time—

excluding commuting to work, school, moving to new residence, making sales calls or deliveries, belonging to a work crew and travelling within Metro Toronto—should be used as criteria for all business establishments.

I thank you for listening to our deputation. If you have any questions or if you have any interest in speaking to our group—and there are several of us who have been working on this and our brief, which was quite lengthy, which we documented and sent to Mike Farnan concerning our interests in this from the residents' view and the implications in large urban centres—we would be very interested to speak to people about that. Thank you very much for hearing us.

The Chair: We do not have much time for questions. However, the next group has yet to appear. Given that, perhaps we could have three minutes per caucus. Mr Daigeler and Mr Poirier.

Mr Daigeler: Thank you for appearing before us and for your efforts at the local level to protect what you consider an important quality-of-life issue.

You stated in your brief, and there I certainly agree with you—in fact, I repeated that several times during the hearings—these tourism “regulations are so vague, so general and so open to interpretation that they will enable practically any city, town, village and hamlet to declare itself a tourist area.” I quite agree with you there. The only remark I have there is, it would be perhaps more honest on the part of the government just to leave the legislation alone the way it is now, because it will come to the same effect that each municipality or region can decide whether it wants to stay open. I was not sure whether you read that into the record.

In your brief on page 3, however, you point to the ambiguity of this problem and to the difficulty that we are experiencing as legislators. On the top of page 3 you say, “I should mention, however, that it appeared that a large number of the same people opposing tourist designation”—when your group made representation to the city—also “were strongly in favour of ‘province-wide Sunday shopping.’”

I think this is the dilemma that we are facing. On the one hand we seem to have the desire of people to live and be in peace and quiet, and at the same time the same people want the privilege to be able to shop on Sunday. How do you explain this and what is your reaction to that decision to which reference was made by the earlier presenter? He said, “Well, let the consumer decide.”

1130

Ms Shinn: I disagree with the man before me; I forget his name at the moment. I think Canada has a mixed economy, not a market-driven economy. I think in a way we are different from the States in that, and the protection that we might offer businesses may be slightly different. But I do not see there being a difference there. People who want to shop on Sunday are people like everybody who is working flat out, and they maybe have some time on Sunday to shop. However, a residential community is not the place to put your Sunday shopping venues. If you have everything open on Sunday, then you have this dispersion of the impact of Sunday shopping, and it invites people to be able to walk to local stores.

Mr Daigeler: So you would be in favour of what?

Ms Shinn: Wide-open Sunday shopping. Personally, and I have discussed this too, if the city of Toronto were to designate itself a tourist area, it would also benefit the way—the regulations do not work in terms of park land. The city designs park land to work as a system, and the more we crowd people into high-rise buildings, the more we depend on our urban park land to service urban users. So to say that our best-used local parks are going to be targetted for tourist areas for people who are so far away that they are tourists is, I think, wrong.

Mr Daigeler: I do want to put this on the record again, because I think this is very important, what your position is on the overall purpose of this legislation. You would argue for a general permission to stay open for any storekeeper if he or she wants to?

Mr Fletcher: No matter where; wide-open Sunday shopping.

Ms Shinn: Province-wide, wide-open Sunday shopping. Or, if it came down to it, the city of Toronto at any rate.

Mr Daigeler: You would also support the municipal option, that if a certain city wants to stay closed, they should have that right?

Ms Shinn: Yes. I think it may be a mistake for Metro to designate itself a tourist area in that the kinds of people who live in the city of Toronto may turn out to be very different from the kinds of people who have chosen to live out in the suburbs. We tend to live and work close together and we often tend to work at home, so we are perhaps in a position where we are integrating our lives and our work to a greater extent than the people who have chosen to move out to the suburbs. So there may be a different type of demographic.

Perhaps designating Metro is a different issue than designating the city of Toronto, which is a natural centre. The city of Toronto is the capital of the province. It is the home of our Parliament buildings, our city hall, our main universities. It is a natural centre, and the people who live in that natural centre are doing it for a reason. I do not think the little communities that make that city work are the ones to be hit by being localized and exploited as tourist areas, but that the centre should be kept as the centre. The community should be respected as being part of the city, to stay safe and community-minded.

The Chair: Thank you. I think we will want to give the Conservatives a chance.

Ms Shinn: I am sorry. I tend to go on.

Mr Carr: Thank you very much. You did a good job.

Mr Daigeler: You see, the way the system works, each caucus gets a chance: the Liberals, the Conservatives and the NDP.

Mr Carr: You are going to get a chance to do it again. You have done a good job, and I guess when it comes up before council municipally, you will get a chance. But you certainly did a very good job.

I had one question, though, relating to page 7. You talked about how “businesses applying for tourist exemptions should have to prove that they indeed service ‘tourists,’”

and that to be eligible for exemptions, businesses should provide audited evidence. I do not know if you are familiar—the number one problem that business sees is of course taxes, whether they be federal, provincial or municipal, but the second biggest problem that they see is government regulation. I am just wondering how you would answer somebody who is saying, here we are making another regulation in an already overregulated province. Did you have any comments on that?

Ms Shinn: I do not see that as a regulation. I see that if they are really going to claim to be a tourist area, servicing tourists' needs, they have to prove that they are. In our area, they have a captive audience with their stores, and they get people to come in and sign petitions. Well, we do not have the ability to sit in a piece of commercial space that is well patronized by the locals and collect petitions. Unless you can find a third-party way of actually finding out if they are servicing the interests of tourists, they should not be able to claim, on their own behalf, that they are servicing the interests of tourists. This is the problem.

The people who come to the Beach area come every weekend. In many cases they come every day of the week. They live in the city. If they say, "Well, who are all these people? These are tourists," they are wrong. They are not tourists. They are people who live in the same tax base, and they are coming down to their local park. I object to these people being called tourists, and that they then use that term to look for tourist designation.

They have to prove they are servicing the interests of tourists. That is not a regulation; that is something that says, how can you tell me that you are servicing the interests of tourists? If they cannot prove that, they do not have a leg to stand on. That is one of the fundamental things they would have to prove. If it is no "economic tourist" difference to them—I am sorry, but if I am on holiday and I cannot afford to leave the city of Toronto, I can choose to go to the beach on every day of the week but Sunday, unless I wanted to see the crowds. I can choose what day I go. On Sundays, it is packed. So you have a choice when you are on holiday. I do not agree with the argument the BIA proposed that, "Oh, they cannot afford to go on holidays far away." Well, that is perfect; they can come six days a week when it is not crowded.

Mr Carr: Thank you. Good luck.

Mr Fletcher: Good presentation. I agree with a lot of what you have said and your recommendations.

Let me just ask you if you agree with the previous legislation, the Liberal legislation. Do you like that legislation and municipal option? I know in your brief you said that for a number of years many stores have been open on Sunday, some illegally and others legally under the loopholes and exemptions in the previous legislation.

Ms Shinn: It has the same failures that this one does. It has left it up to the municipalities, the guidelines are vague and the criteria have huge loopholes.

Mr Fletcher: I just wanted to clear that up. When Mr Daigeler asked you, you said that you agreed with that legislation.

Ms Shinn: Do you see what is happening with this legislation? You have put a square footage on the size of the store that is allowed to be open. Now the developers in the Beach are going to build empty retail space that is that size. It is ridiculous. They target areas, and that is the size that commercial buildings become. So you have to seriously consider exactly what your loopholes are.

To my way of thinking, the mistake is that venetian blinds and business suits are not applicable to people who are coming to a park to jog. If they do not have some—and I would not even say "something"; they all carry earrings and bangles and stuff and body lotions, it seems—it has to be not just something they can stick in their store to make them look like they are a tourist interest, but what their store sells as the majority of its income. They have to prove they are servicing the interests of tourists.

Mr Fletcher: Do you know that under this proposed amendment, the municipality is not required to pass a bylaw, even if the criteria are met?

Ms Shinn: That is all very nice, but the BIA has recommended that they use section 217 of the Municipal Act to allow them to request tourist designation.

Mr Fletcher: But the municipal government is not there just for business interests. It is there for the people who live there also.

Ms Shinn: That is a mistake, because the BIA is only composed of people who pay retail taxes in a commercial area. I am not allowed to vote, and I certainly do not remember electing any BIA executive to plan the future of my community. I object to them being able to conduct some survey by their own vice-president, saying that these are tourists. I would say that I could have my own consultant do a survey that proved completely the opposite.

Mr Fletcher: But as far as the municipal government is concerned, they are not there—and this is what Mr Tonks had to say, that we are going to go through every loophole and everything else to open wide open. Why would someone say something like that, a politician who is there to represent the people, not just the business interests? That is what I have a problem with.

1140

Ms Shinn: My problem that I have experienced is this: You get a squeaky door, and I have noticed in these hearings you have got a lot of proportion of squeaky doors from the Beach, but that is not the most useful door to put in your building. You have to have something that is a rational, intelligent decision. What they are making as a judgement on the Metro level, I do not know that Mr Tonks would have the support of Metro like Mr Eggleton would have for the city of Toronto. If it had to go to a plebiscite to establish whether Metro wanted to be wide open, maybe it should do that. I have some problems with plebiscites—

Mr Fletcher: Me too.

Ms Shinn: —the way those are done as well, but I do not know what other way you can do it. I hesitate to allow BIAs to use that piece of municipal legislation. I have problems with the Municipal Act allowing BIAs to simply establish themselves and conquer. I would seriously

change that if they are proposing using that to put tourist designations in effect.

Mr Fletcher: Right. Thank you very much.

Ms Shinn: Sorry.

Mr Fletcher: That is okay.

Mr Klopp: It was brought up that a lot of your group were thinking, "Open up province-wide Sunday shopping, at least in Toronto." My interpretation of that frustration, which I think I was getting from your program—you can say yes or no if I am wrong—I felt that you probably thought that if all of Toronto was designated open Sunday shopping, then the other stores would open and those people who wanted to shop on Sunday would not come down to your area but would actually stay in their area and shop.

But it was pointed out by the people who really want wide-open Sunday shopping that if their store is not busy, they will shut that store down. So unfortunately, in your area, and there are always cracks in these things, you could have wide-open Sunday shopping in the city, but a store on Spadina and whatever little corner is not going to open because everybody is down at the beach or at the park and it is those stores that will stay open, or as you pointed out, the big companies just come in and move in and destroy your stores anyway. So I think when Mr Daigeler was trying to get you to say you support province-wide Sunday shopping, I assume you would hope it would spread the whole thing out and take the pressure off, and I am saying to you that it will not, unfortunately.

Ms Shinn: I disagree with you, and I think the reason is that if people are coming to the park, if that is really what our neighbourhood can possibly service, and we have limited resources for parking cars, and park users do not use cars like shoppers do, the Cotton Ginny and all the serial stores we have in our neighbourhood are the same as every other mall. If somebody wants to go to a Cotton Ginny store or whatever to buy a shirt, they have now got the possibility of walking to their local store or they have a possibility of driving their car to a mall that has parking. I think that is the aspect of it that we would like to see.

You have to remember the Beach is a mall. It has the same complement of shops as the Eaton Centre, and if the Eaton Centre was a designated tourist area, it would take the burden off our neighbourhood to accommodate people who have come solely for the purpose of shopping. It is not the little stores and the one-store shop owners, who seriously need the help, who benefit from that in a big way. When we had wide-open Sunday shopping, there were more local people shopping, and like the man said, they went to church and then they shopped. So I think you have more local shoppers in local areas putting money in

local people's pockets when you have something in a large urban centre open on a larger scale.

I would say yes, for the city of Toronto it would certainly, to my way of thinking about the city of Toronto, be the sensible, logical, intelligent way to look at the way the system in Toronto works, the park system and the way the retail system has set up with all this franchising. To argue that there are not enough people in some places does not say that once they are open on Sunday on a regular basis they would not have people realizing, "Oh, I don't have to go to the Beach to shop at"—whatever that chain store is—"I can now go just down here," and their local merchants are going to benefit.

Mr Klopp: It is an interesting point. I think one of the things that helped with the tourism exemption is your idea, you know, force them to be honest if you are going to have tourist exemptions, which I think is one of the problems you have had with the last legislation. They designated your area tourist and you have had these problems—

Ms Shinn: But they did not designate us tourist. They just opened illegally and said they were. We are not a designated tourist area. That is the misconception that they are telling us, and they are not tourists. They come from the city of Toronto and, by definition, they are not tourists. They are people who come to lie on the beach, 20,000 or 30,000 of them.

Mr Klopp: But they must be following the last Liberal legislation, are they not?

Ms Shinn: They are not tourists, even by the Metro definition. They do not come from 40 kilometres away.

Mr Klopp: So if we have a tourist exemption here but we tighten up these rules, then that would effectively help you out, right?

Ms Shinn: It would effectively leave the park for park users or people who live in cities who need recreational opportunities for their families on Sunday.

Mr Klopp: That is what I meant. I support that.

The Chair: Thank you, Ms Shinn; a very interesting presentation. As you noted, it certainly differs and varies from the many business and other presentations we have had. Thank you.

Ms Shinn: If you do want to discuss this any more, there are other associations in the Beach and there are other associations across the waterfront which have views on this but are meeting-out at this point in time, I assure you.

The Chair: I can understand it. Thank you very much. We are adjourned until 1:30, as our 11:30 presenter did not show.

The committee recessed at 1146.

AFTERNOON SITTING

The committee resumed at 1337.

The Chair: I would like to call this afternoon's sitting of the standing committee on administration of justice to order. There is a bit of a change in our scheduling. Mr Fred Koobs was to have been presenting. He does not appear to be here. Mr Dan Taylor, at 1:45, has cancelled.

CARMINE FIORE

The Chair: Mr Carmine Fiore will present if he is ready to do so. We have about a quarter of an hour. Please divide that between your presentation, and if you can, allow some time for the committee members to pose questions to you. Please proceed when you are comfortable.

Mr Fiore: Please excuse me. I am a bit nervous, so bear with me if I make some kind of mistake. My name is Carmine Fiore. I am very pleased to have this opportunity to appear before the standing committee on administration of justice. I am here today to present my views on Sunday shopping. I prefer calling it Sunday working. I have worked in the retail industry for over 20 years, both on a part-time and a full-time basis.

First of all, I would like to commend the government on its efforts to establish a common pause day in Ontario. Bill 115 has a direct impact on myself, my family and my life. In addressing this issue, I am sure I speak for thousands of fellow workers in the retail industry. Let me briefly describe to you a bit about myself. I am married with two children. My wife and I work and both my children attend school and day care. I own a house and of course a mortgage attached to it.

The nature of my employment requires me to work almost every Saturday, with a day off during the week. My wife works Monday to Friday. My children are at school Monday to Friday. Also most of my friends and relatives. Presently I am enjoying my common pause day, a day on which I may have breakfast with my family and plan activities with my family and where the whole family is able to visit friends and relatives.

In today's society with its fast-moving pace, social problems, work-related stress, high crime rate and economic pressures, we cannot let the family as we know it today deteriorate. We must not be led to believe that Sunday working is voluntary, because you and I both know the pressures which await us from all levels of management. Management, with its ways, powers and means, can coerce its employees to work on Sunday.

Recently there was talk about a public referendum on Sunday shopping in the November 12 municipal election. I would like to see that referendum changed from, "Who would like to shop on Sundays?" to, "Who would like to work on Sundays?"

I also wonder who will pay for the extra public services that are going to be needed: full TTC service, full police service, increased traffic and maintenance, and the list goes on and on. Where does the extra income come from? From a possible new tax to be introduced, ie, SST, a Sunday

shopping tax, along with the existing taxes, the goods and services tax and the provincial sales tax?

To summarize, the objective here is to avoid Sunday working and retain our common pause day. We, the working people in the retail industry, stand to lose the most. Therefore we must continue to practise what we believe and not what we are led to believe.

Again, I would like to thank the government for all its efforts in introducing Bill 115 and the importance of the common pause day. If the proposed bill is passed, large corporations have lobbied and threatened the government with legal action. We should not lose sight of thousands and thousands of individual retail workers who are going to be directly affected if the common pause day is not retained.

I am here to appeal to you to support the retail people. We need a common pause day. We need to maintain a family-style society. I would like to thank the ladies and gentlemen of the committee.

Mr Poirier: Thank you for the presentation. We often hear people who are in your position say: "Why should I come forward and make a presentation? Because it's probably been said before, they won't listen." I think we get the message of what you are saying. It makes a lot of sense and we respect that position. We hear both sides. There is no grey zone. People are very much for it or very much against it. We will see what we can do with that. Obviously you really fear you are going to be pressured to work whether you want to or not. Even if you say no, you are afraid of pressure from management if widespread Sunday shopping comes along, right?

Mr Fiore: Yes. Within the past nine months that we were open on Sundays, there was all kinds of pressure being put on the worker, and I know of instances where there is pressure being put on.

Mr Poirier: Did you personally suffer through that pressure?

Mr Fiore: No, because I refused to work from day one. I belong to a union. Within our agreement we have that right. I am also a produce manager. Yes, there is pressure and I can give you all the instances you want.

Mr Poirier: Have you have seen that personally?

Mr Fiore: Yes.

Mr Poirier: Have you known about it in other stores also? Have you heard of it elsewhere?

Mr Fiore: Yes, I have.

Mr Poirier: So you believe that even though a worker has the right to refuse, that is a nice theory, but in practice something else happens.

Mr Fiore: I can see avoiding it in all instances with unionized labour. I do not see it at any other level where they do not enjoy that protection and a working agreement.

Mr Poirier: Are you are afraid management would take advantage of that?

Mr Fiore: I have seen it done, yes.

Mr. Poirier: I thank you for bringing those concerns forward.

Mr Daigeler: I would like to pursue that line of questioning. Could you be more specific? What were those pressures? How did they happen? Also, by the way, that protection is there not just for union workers but for any workers, both under the current legislation and under the projected legislation.

Mr Fiore: I realize that. Let me give you an instance, if I may, about a meat manager. On Sunday morning the person is supposed to be working and does not show up. Whom do you phone to go in and work? The manager. The supervision phones any level of management and says: "We have nobody in your department. We have a business to run." What do you do? That is pressure.

Mr Daigeler: Have you had fellow employees who complain to you about these pressures?

Mr Fiore: Yes, I have. I am also a union steward, and I have a little more support. It is pretty difficult saying no to your boss. You can do it once or twice but guilt and everything else is going to settle in sooner or later.

Mr Daigeler: Do you object to what is in place presently, that regions or municipalities that want to stay open have the right to do that and areas that want to stay closed also have the right to do that? When we went to Collingwood, they very strongly argued that because of tourism and everything else, they should stay open. In Kenora it was the same thing; they argued for that and other places were strongly arguing for that. Kingston was arguing for that. Should they have that right, or do you feel that is not the way to go?

Mr Fiore: If properly controlled as a tourist industry with proper enforcement, yes, we should definitely have some of that. In the industry for family entertainment I would say yes, but wide open, no.

Mr Carr: Thank you very much for your fine presentation. I noticed on page 2 you said you were married with two children. I certainly see what that is like. I appreciate you want to spend some time with your children. Those three young darlings back there are my children; three tiny toys sitting in the back. Mr Kormos will be over lobbying them later. You have to start young.

I want to get specific about this legislation. I was wondering whether you had a chance to read through it and whether you think that as a result of this legislation there will be protection for yourself, or whether you would like to see certain areas strengthened.

Mr Fiore: I would like to see perhaps a little more restriction, as I said earlier, on giving them a wide-open Sunday. Obviously we cannot say it to a police officer or necessary services.

Mr Carr: That is without the tourist exemption. You would not like to have some areas tourist, or are there some cases where you think it should be open for a tourist area, in selective cases?

Mr Fiore: In selective cases that are determined to be a tourist area, yes. However, we must put in place controls over it. We cannot leave this to a municipality, as I read

earlier in the Toronto Star, to Mr Eggleton saying, "We'll put it on the referendum and we'll declare Toronto as an all-tourist area." That is wrong.

1350

Mr Fletcher: Thank you for your presentation. As far as you have heard, in different jurisdictions, in Kingston, people are coming—when I say the people are coming I am not saying the retailers and the downtown business people are coming—and saying: "We have to be open. My workers want to work. We have no problem. They keep saying, 'I want to work for you,' as if it's a flock of people going in and saying, 'Come on, open up so I can work.'" Yet I am hearing from you that perhaps this is not the case. As far as your experience and everything you have been doing are concerned, is it the case that people are flocking to work?

Mr Fiore: Not in my experience, no. Perhaps we could put out the word, instead of calling it "Sunday shopping," let's call it "Sunday working." Not many people are willing to do that. I am sure you are going to get people saying "Sure, I'll go shopping Sunday," but is that a fair statement? Would you like to go to work Sunday?

Mr Fletcher: No.

Mr Fiore: As I said in my opening statement, call it "Sunday working."

Mr Fletcher: I think you are right on.

Mr Kormos: I want to say hello to the Carr kids who are visiting here. You guys do not know this, but when your dad is finished here today, he is taking you all to the Eaton Centre. You can buy anything you want.

Interjection: And supper is on Gary, on your dad.

Mr Kormos: Eat anything you want for supper and then maybe the Ex till as late as you want. It is really nice to see you here and your dad is a good MPP from Oakville. You know that, right?

Mr Lessard: He is kind of old though.

Mr Kormos: He is older than he was a couple of days ago. Sorry, Mr Fiore, but it is kind of nice to have some people here who really have no axe to grind except to see their dad work a little.

In any event, boy, as you can well imagine, we have had developers and retailers and chambers of commerce and BIAs. We have had big charts and pictures and people talking about employment and jobs, and people talking about the recession and how this economy needs Sunday shopping.

But nobody, other than workers like you, and family people and mothers and fathers and the clergy, has been talking about people and quality of life. Just as it is nice for a family with three kids, to have those kids able to come and see their dad work, it is also nice for a family—parents and children, or grandchildren and grandparents, or neighbours—to spend some time just enjoying each others' company without the pressures of work. So nobody has to sit and wait until somebody is finished his workday. The day is free. It belongs to you, rather than to your boss. It belongs to you, rather than to profits. I have a feeling that is what you are saying here.

Mr Fiore: That is exactly what I am saying here.

Mr Kormos: If we really care about the kind of society we live in, if we really care about our children and the kind of cities we want them to grow up in and live in and raise their children in, then we are going to do what we have to do to make sure people have a common pause day. Sunday, as we all know, is the traditional one. It is the Christian one. Granted, there are a lot more people who live in this society now who are not Christians than ever before, but the fact remains that it is the most convenient way possible to make sure people spend more time simply caring about each other. Is that a fair way to put it?

Mr Fiore: Definitely. If I can reiterate what you just said, I do not think we were concerned here with any religion or creed or anything like that. What we are saying is that we have to have a day when the whole family is there. The reason I enjoy getting up Sunday mornings—they happen to be Sunday mornings—is that I have a two-year-old girl and a four-year-old son. I love getting up on Sunday morning and having breakfast with them. On Saturday I am working. I get up at 7 o'clock to go to work.

Mr Kormos: Gotcha. Thanks for being here today.

The Chair: Thank you very much, Mr Fiore. Certainly, as Mr Kormos suggests, it is very valuable to have someone who is actually involved take that time out of his busy day. As you were saying, you have not a lot of experience in doing this kind of thing, but we really very much appreciate it.

FAIRWEATHER

The Chair: We now have a presentation from Mr Phillip Stark, representing Fairweather stores. Mr Stark, we have approximately half an hour. Please leave some time for the committee members who, I am sure, will have a lot of questions for you.

Mr Stark: I am Phillip Stark, market manager of Fairweather at the Eaton Centre. As a representative of Dylex Ltd, I am appearing today to communicate what we consider the serious impact of Bill 115 from my own and my employees' perspective.

Fairweather is a ladies' clothing chain operating 64 locations in Ontario. Sales revenues in Ontario for 1990 were \$98 million. We employ 1,300 Ontarians, with store personnel at an average age of 24 years. Ninety per cent of our employees are women.

Our customer is the adult baby boomer, now between the ages of 25 to 45. She is most often married with young children. Both she and her husband are mostly employed, and thus time-starved. Their total family income tends to be better or the same than the average for the community.

Like all Canadian retailers, we are faced with many changes going into the 1990s, and we are also searching for answers. The proposed Bill 115 prohibits Ontarians from choosing their own shopping hours and shopping days and discourages new employment. Because my job in Dylex is at store level and front-line, so to speak, I was responsible for co-ordinating Sunday shopping of stores in my market last year. I personally communicated with all my store managers and employees in ascertaining how we would deal with the logistics of Sunday openings.

First, management considered Sunday shopping an opportunity to increase their own location sales and build the customer base further. They also saw this as a chance to be more successful in their own jobs. Employees' reactions to Sunday shopping were extremely favourable, particularly in the case of part-time students. Previously these students had the option of working some nights during the week and Saturdays. However, the demands on a student working during the week are and were extremely high. Pressure to reach work on time for their shift after school hours and completing their shift late at night proved to be extremely stressful and tiring for them. Attending school the next morning and dealing with the disruption of their studies at night and weekdays was frustrating to these employees and counterproductive to us, the employer. However, with the advent of Sunday shopping, many of these students gave up their weekday hours and worked Saturdays and Sundays. This allowed them to concentrate effectively on studies Monday to Friday.

Some of Fairweather's full-time employees also opted to work some occasional Sundays. This gave them the flexibility where they may have needed an extra full day off during the week to catch up on personal tasks and chores.

All Fairweather's employees who worked on Sundays were totally voluntary. In retrospect, we experience more and more employees coming forward and requesting extra hours since this was an opportunity of earning extra dollars in an already expensive economy, which was not offering the choice of too many jobs. We even received applications for Sunday work only from outside people who had other full-time jobs with other companies, but needed supplementary income due to spouse's loss of job or not being able to meet payment of personal bills. We hired these people wherever we had openings, and in doing so did our part in creating new jobs and serving our community.

Our employees who worked on Sundays were extremely satisfied with the scheduled hours, ie, noon to 5, as they were not occupied working the entire day. In discussion with my peers, it was evident that our management and employees favoured Sunday openings across the board. We also agreed that Sunday shopping in Ontario could help to offset some of the exodus on Sundays across the border.

Fairweather's estimated lost revenue, by the way, due to lack of Sunday shopping, is \$3.9 million, and \$25 million due to cross-border shopping.

Fairweather's western Canadian region, where stores have been able to open on Sundays since approximately six years ago, has experienced significant better overall sales growth since this was introduced. With this still ongoing, it is noteworthy that this was Fairweather's better-performing region country-wide for the last 12 months.

In speaking to my peers in western Canada, it is also evident that Sunday shopping is now an accepted way of life and has in no way changed family unity but rather has helped the economy.

From our customers' perspective, career people who are pushed for time during the week were able to shop at leisure on Sundays. Saturdays had become for some a day to unwind and catch up on home issues rather than frequent the malls.

Having worked in the malls on Sundays myself, it was very evident that the majority of the shoppers came as a family unit. These families were able to shop at their leisure, breaking for lunch at mall restaurants and food courts and enjoyed their visit to the mall as a day of relaxation. Families that did not participate in winter sports or recreation also used Sunday openings as an alternative to get together with family and friends in the malls.

Personally I am extremely concerned, as the leader of our flagship store at the Eaton Centre downtown, that I am unable to open this location on Sundays. This is a lost opportunity for my store to capture tourist business and an earning loss for my employees. With American competitors such as Victoria's Secret, the Limited, the Gap and others entering our market, Canadian retailers have to remain competitive and capture the sale first.

Sunday shopping could play a small part in stimulating the retail industry in Ontario again, and it is what Ontarians want. We have to face the demands of our consumer and our employees and meet their needs on all fronts, from service and value for the customer to our employees' right to work whenever and how often they wish.

1400

Mr Poirier: Interesting presentation, Mr Stark. What I want to know is, you have had no problems finding people to work. You have had to do no intimidation, and correct me if I am wrong, about forcing them to work on Sunday?

Mr Stark: Absolutely not.

Mr Poirier: Have you heard about other problems like that elsewhere in other of your competitors or friends or neighbours or whatever?

Mr Stark: Personally not at all. For example, in one other company where I have a friend working, that company basically took the same stance as us. It was totally voluntary. We did not break out Sunday shopping to our employees as, "This is something you have to do." It was totally a discussion. We dealt with it with a lot of empathy. We dealt very carefully with it, and we made it very clear up front that if anybody did not want to work, he was under absolutely no pressure to work whatsoever.

Mr Poirier: Did you pay a premium to work on Sunday, or was it just regular time?

Mr Stark: At that time, because it was regular hours and they were working a regular work week, we paid regular pay.

Mr Poirier: Do your employees have a choice to take pay for working on Sunday or change it for another day of the week?

Mr Stark: Yes, absolutely.

Mr Poirier: So they have a choice.

Mr Stark: They have a choice, yes.

Mr Poirier: Were you forced to cut back the number of hours during the week when you opened on a Sunday? Did your regular staff end up having fewer hours?

Mr Stark: Absolutely not. Legally we are not allowed to cut back on full-time hours anyway. We did not cut back. In fact, we increased hours. It was at an increased cost to us, but the increased business offset it.

Mr Poirier: From what I can gather in your presentation, opening on Sunday is not shifting what you made before in six days. Sunday is an added sum of money that would not be there over the six days if you were closed on Sunday.

Mr Stark: Absolutely. We were very careful in establishing right up front how Saturdays would be affected, and Mondays in fact. Those were some of our concerns, but we did not see any dropoff on Saturdays. We saw an increase on Sundays. We saw customers we had never seen before. Mondays absolutely continued as normal.

Mr Poirier: On Sunday, can tourists walk around inside the Eaton Centre?

Mr Stark: Yes.

Mr Poirier: They can walk around and bump their nose on your store window, right?

Mr Stark: They can.

Mr Poirier: Are there some stores open in the Eaton Centre, some tourist services or whatever?

Mr Stark: Not really.

Mr Poirier: There is nothing open.

Mr Stark: As far as I know, there is nothing open.

Mr Poirier: But they can walk in and look.

Mr Stark: They could walk in and look at windows, yes.

Mr Poirier: Fair enough.

Mr Daigeler: A little bit on the same line of questioning: You mentioned in your presentation that the estimated loss of revenue due to Bill 115 is \$3.9 million in 1991. How do arrive at that?

Mr Stark: That is a purely financial figure I have received from my head office. I did not personally put it all together. That is financial information the company has.

Mr Daigeler: I am just trying to get a sense how they would be able to say something like this.

Mr Stark: I could follow up on that for you; absolutely no problem.

Mr Daigeler: Presumably it is that they have looked at the revenues from each day and asked, as Mr Poirier said, if it spread out over seven days what normally you got in six days, or was new revenue. From what you have said, it was new revenues.

Mr Stark: Yes. I am not sure how they exactly arrived at the figure, but in terms of my own personal region I was controlling, we did experience increased sales. But I could not honestly tell you if that was across the board. I could follow up on that.

Mr Daigeler: You attribute that increased income directly to the Sunday opening, or could it have been other factors?

Mr Stark: No, I think what we found in most cases was that Sundays picked up, I would say, between 10% to 15% of our week's business that we were so-called goaling for, but there was definitely an increase. We also saw that we were pulling customers from mall to mall, customers who were not also our regular customers. For example, in the Woodbine mall, where there is a fun fair for children, a lot

of families that did not normally shop in that area came from other areas to shop there because they made a day of it with the children. There was a whole entire kiddie-sphere that was open. That was open every Sunday and we experienced very good business in Woodbine Centre.

Mr Daigeler: I guess you could call those "tourists" under the criteria put forward under the present legislation.

Mr Stark: I guess so, yes.

Mr Carr: My question relates to the square footage. What is your square footage? Would you fall under the 7,500?

Mr Stark: At the Eaton Centre it is just over 9,000 square feet.

Mr Carr: But most of the other ones would be under that?

Mr Stark: It varies. We have some very large stores which are approximately 9,000 and then it really moves from 9,000 down to, I would say, about 6,000 on average.

Mr Carr: As you know, with the municipal option, there is some discussion that the tourism exemption that will allow a large portion of this province to be open. Do you see that happening, or do you see that a lot of areas will not be opening and not taking the tourist exemption? What is your feel for it across the province? Do you have any idea?

Mr Stark: Not really, no. I honestly could not answer that; sorry.

Mr Carr: You mentioned the Woodbine store. I know that because that is the area I grew up in and I know the kids' fair. Presumably in the Toronto area you will be making presentations to try and get your store in areas—

Mr Stark: In Woodbine's case I would say it definitely would be to our advantage, yes.

Mr Carr: What about the other ones? Do you see doing it in all other areas too?

Mr Stark: It would depend on the mall and what tourist facilities there were in those malls. The Eaton Centre, for example, I personally believe is a strong tourist area because of Spadina and Chinatown being close by. A lot of tourists who come not only from the United States but from Europe head for downtown, because that is where the CNE is and that is where everything is. A lot of them would head for the Eaton Centre, absolutely.

Mr Carr: I guess none of us knows what the percentage is going to be until we know what happens. The Eaton Centre might be and some others might not. You obviously want wide-open, but that probably will not be the case for all areas. How will it affect you if just some of them are open? Will that create any problems or will you be happy just to get some of them open, to have Woodbine and the Eaton Centre open? What is your feeling on that?

Mr Stark: We obviously support wide-open, as you know, but certainly I would see that as a start if we had some locations open right away, absolutely. But certainly we are supporting wide-open.

Mr Carr: I notice you talked a little bit about the financial aspect and I think some of the presentations that have been made have been that the large companies that

are making a great deal of money want this. If it is public knowledge, what is your particular financial statement? Are you in the red now or are you in a profit situation, your particular division?

1410

Mr Stark: It is confidential, but we have had a tough year.

Mr Carr: Some of them that have been here are public companies and it is open. I do not want to get information that is private.

Mr Stark: We have had a very difficult year.

Mr Carr: Good luck.

Mr Fletcher: Thank you, Mr Stark, for your presentation. It is nice to at least hear that you favour the protection of workers in having the right to refuse Sunday work. That is an important issue as far as we are concerned, and that is one of the reasons this piece of legislation is coming down.

Just a few questions. Yesterday in Peterborough we had the president of the chamber of commerce. He was saying, "Whenever you're making legislation, don't leave it up to the consumer, because the consumers will shop eight days if they have the opportunity, no matter what." He said, "Leave it up to retailers and listen to what retailers are saying."

I have to tell you right now that what we have heard from retailers is, I would not say even a 50-50 split; I would say it has been favouring more and more the side of, "We don't want Sunday openings." That is what the retailers are saying. It is the small ma-and-pa stores, the other ones, that are saying: "If you allow the big chains to open"—Fairweather is a big chain—"then we're going to be forced to open. We can't compete with them." There's no way that a small ma-and-pa store can compete with the big chains because of the amount of money behind them and everything else. I have to agree with them on that level, that they will not be able to compete. They are the small corner stores. They are the people who are a family business.

As far as Fairweather is concerned, you are a big conglomerate and I can understand where the pressures are coming from. As far as the pressures from the American competition is concerned, is this American competition across the border or American competition opening stores in Canada, in Ontario?

Mr Stark: Absolutely. The American competition is coming into Canada. In fact, the Gap has opened 24 stores already and they are in direct competition to us. We also have information that there are other companies coming in very shortly. These companies are definitely a concern for us and we need to be geared up to compete with them. Also, in terms of the mom-and-pop operation, they do compete with us. They have a market share and they compete with us during the week as well. I understand exactly what you are saying.

Mr Fletcher: I know they have the market share, they just do not want to see that market share decrease. As far as competition from the United States moving into Ontario is concerned, if they have to play by the same rules and they cannot open on a Sunday, they can only open at the

same times you can, and they can only have the same square footage and everything else. It is the same rules, a level playing field, and the competition is going to be in marketing, not so much in price because they will be paying the same taxes, unless we get those discount stores. You know what they are and you know they are coming and that is something we have to watch out for, I agree. But as far as Sunday shopping is concerned, and the competition, is it not a level playing field when you come into it?

Mr Stark: My only response to that is that in terms of the American competition, we would like to get a step ahead and keep a step ahead all the way. It will take them a while to establish themselves in Canada and we want to really get ahead and get the sale first, so to speak, and really get our market share, increase it and keep it. We feel it is related in a way to Sunday shopping simply because it is an issue we have had experience with before. We know what the consumer is looking for. We know how to promote Sunday shopping. We have had some experience. We would just like to keep a jump ahead.

Mr Fletcher: It is strange, though, because with the high dollar, the GST and our taxes, they are willing to come into this market and they are going to be aggressive; you know they are. How are you going to be aggressive?

Mr Stark: How are we going to be aggressive?

Mr Fletcher: Yes. Are you going to adapt to their system? Are you going to change that much so that you can be as aggressive as they?

Mr Stark: No, our plan is to be better than they are, to be competitive with them in terms of our whole operation. We do not want our consumer to go to them and we have been doing everything in the last five years preparing for the Americans coming in.

Mr Fletcher: I am glad to hear you are prepared.

One other thing: When I look at your employees, 90% of 1,300 employees are women, full-time workers; their average age is 27, part-time is 21. The interesting part of this is that many of these women gain valuable, first-time job experience. This is not a career with them. It is their first job. They are getting the experience. They are moving on. If I were plotting my career and I came to you and I have worked part-time, my decision to work on Sunday would be on just a part-time basis; it would not be a long-term thing. You get the retail workers who are working in grocery stores who have been there 15, 20 or 25 years. This is a long-term implication for them, and their families are the people who suffer also.

I can understand part of your problem as far as competition is concerned, but when it comes to the long-term employee, the decisions we make are affecting long-term career-oriented people, not just the person who is going to be there for a short period of time. That is one of the things we have to look at on this.

Mr Stark: We hope all our employees would stay with us and create a career. In fact we have a lot of employees who joined us as part-time cashiers and today are managers. We do encourage them and we try and train everybody correctly so that they will stay with us and make a career with us.

Mr Fletcher: No doubt some of your people whom you have trained have gone on and they are your competition now. They have opened their own stores. You be careful of that.

The Chair: Thank you very much, Mr Stark. A very interesting presentation.

1420

CHINESE CANADIAN NATIONAL COUNCIL

The Chair: We have with us now Mr Jonathan Leung from the Chinese Canadian National Council. Please have a seat, Mr Leung. You have approximately half an hour for your presentation, to be divided between your presentation and hopefully some time for members of the committee to ask questions of you, sir. Please feel free to start when you are ready.

Mr Leung: On behalf of the Chinese Canadian National Council we would like to take this opportunity to express our view on Bill 115 pertaining to the amendments to the existing retail business establishments statute law. As a matter of principle, the Chinese Canadian National Council is in support of the proposed bill pertaining to portions of it that protect the workers' right to refuse work on Sunday and holidays. However, the council opposes the part of the proposed bill that requires stores to close on Sunday and statutory holidays except for those located in designated tourist areas, for the following reasons. What it really boils down to, we feel, is the very strong discriminatory elements contained in the bill.

The proposed legislation protects those workers who do not wish to work on Sunday and statutory holidays for religious or other reasons. However, at the same time the council will submit that it will be injurious to those workers who, for economic reasons or any other reasons, wish to work on Sundays and statutory holidays and take their pause day on a day of their own choice—not necessarily on Sunday; maybe Monday, Tuesday, whatever. It is those workers who are prepared, for their own reasons, to work on Sundays who are being deprived of the right to work on that day because their employer is being deprived of the opportunity to open on that day. If the reason for the bill is to protect those workers, I submit to the committee that we cannot ignore the wishes of those people who wish to take a pause day on a different day.

There are many businesses in the Chinese community which are not located in any designated tourist areas. These people are not located there because of their choice. They have been operating the business for many years and there are many strange scenarios, especially in the area where Chinatown is located, for example, where you have an arbitrary cutoff line which says so many square feet away from certain junctions is designated tourist and anything beyond that is not. You can have a situation whereby stores are right next to each other, doing the same business and one is permitted to open but the other one is not permitted to open, through some very arbitrary cutoff lines.

I submit to the committee here that the Supreme Court has determined that the Lord's Day (Ontario) Act was in contravention of the Canadian Charter of Rights and Freedoms. The present proposed legislation which designates

Sunday as a common pause day, while its intent is not to create the same intent as the Lord's Day Act (Ontario), is, in effect, doing the same thing. In other words, we limit the freedom of religious practices. The council has actually sent a letter to Premier Rae raising this concern about a common pause day on Sunday. I would like to read to the committee the response we got back from the Premier: "Our government supports a common pause day for Ontario workers and their families. We believe that this strengthens family and community life."

Now I read that to mean that it is my understanding that part of the objective of the common pause day is to encourage the family having one day when they can get together. I speak as someone coming from another country; namely, I came from Hong Kong 20-odd years ago. The committee members here will probably all agree that families in the Orient—in China and Japan—are well known for closeness. They are very closely knit families, but strangely they do not have any designated day of pause by the government to encourage the family to get together.

Why? I guess what it boils down to is this: No government can legislate the family to be close together. If they are not close together, I do not care how you legislate it—they are not going to be close. But if the family wants to develop the relationship, they will use every single opportunity they have—after work, at night, during a day of pause. It may be on a common day; it may be different days. I submit to you that the closeness of Oriental families is way better than what I have seen in Canada, in the United States or in any of the western countries. If one of the primary objectives is to encourage families to get together to have a common pause day, I submit to the committee that this legislation fails in a most miserable way.

The council has one basic feeling on this. We support any legislation that protects people's rights but we have difficulties in accepting any legislation that, for all its good intentions tries to protect the interests of certain segments of the community and ends up doing it at the expense of other members of the community, whether knowingly or unknowingly.

I submit to you that business people, people who engage in retail business, have just as much right and should be entitled to as much protection as the workers. I cannot see this legislation providing any protection to them in terms of the basic right to do what they should be permitted to do in a legal and open fashion; namely, earn their own living on any business day. If the government feels the need for the worker to have 36 hours in terms of consecutive leave, which the bill currently has, we like to have that in place, but let it be worked out between the employer and the employees, as long as we have the protection given to the employees that they have the right to refuse work on Sunday and statutory holidays and have the entitlement to 36 hours' consecutive leave from their work to get them recharged, not so much to allow them necessarily to be closer to their family, but to let them recharge their energy so they can do their work better.

In short, the Chinese Canadian National Council would like to urge the government, through this particular committee, to reconsider the proposed legislation in question and hopefully make the necessary amendment to ensure

that strong protection be given to workers but without violating people's basic rights and freedom to choose.

I can go back to the same letter we got back from the Premier. This is an interesting situation. The Premier said: "The retail holidays act recognized that not everyone worships on the same day of the week. Section 5 of the act allows retail businesses to operate on a Sunday if they are always closed to the public throughout another day of the week because of owners' religions."

While I can see that the act respects the right of people with a certain religious belief not to work on a certain day, it seems to me that in this case the act totally ignored those people who may have a religion but whose religion does not necessarily require them to rest on any specific day, but just allows them to take a day of rest any day they choose to. Does that mean people have to justify to the government that their religion must dictate that they rest on that particular day? What about the atheists who have no religion whatsoever? Does that mean their right to say, "I don't want to work on Sunday," or take a rest on Monday, is automatically gone because they have no religion? I go back to the basic principle, that people should have the right and freedom to choose to work and rest whenever they want, as long as they can do it in such a manner that would not be injurious to any other parties.

That is basically the submission the council would like to make to the honourable members on this particular committee.

The Vice-Chair: Thank you very much, sir. Mr Elston. By the way, each caucus has five minutes.

Mr Elston: As usual, I will be short.

The presenter should know that earlier this morning we were visited by the Solicitor General, Mr Pilkey, who said that the issue of a common pause day is "not negotiable," which leaves a good portion of your presentation—although sympathetically to be reviewed by many of us here, I do not think we are going to be able to move on it, because Mr Pilkey has delivered that message again, has reaffirmed what the Premier has written.

You brought an area of interest to me which I had not thought of personally, and that was, what happens when there is no particular day set aside for religious observance? It seems to me that is an area which we as a committee must try to come to grips with so that there is fairness in this. We may end up having to provide an amendment which would provide us with that leniency, because I think that is a part of your presentation that perhaps we can encourage the Solicitor General to make some replies to our committee on. The common pause day issue seems to be, for the government, immovable, but perhaps that portion can be dealt with. I appreciate your raising that for us today.

1430

Mr Daigeler: Some two weeks ago, when we were here in Toronto—then we started travelling—we had a representation from a member of your community and I asked him the same question. In the Chinese tradition, is there any one particular day of common rest? More specifically, even in Hong Kong today, is there a particular day

where, let's say, most government offices, most schools and so on are closed? If so, which day is that?

Mr Leung: For example, I can speak about Hong Kong. Yes, the government offices always close on Sunday, and so do the offices. But what that really boils down to, to be quite honest with you, is that it goes back to the fact that Hong Kong has been a British colony for many years and a lot of the legislation in terms of dictating when a government office should be open or not open really dates back to the Lord's Day belief that people should rest on Sunday.

Mr Daigeler: Would that be the same thing in mainland China? For example, in Russia, before the changes, they too still had Sunday, obviously in a non-religious fashion, as the day when places were closed, the government and so on. What about mainland China?

Mr Leung: I go back there once every year. I can say that in mainland China, yes, government offices close on Sunday, and even some businesses are closed on Sunday, but that really probably is more reflective of the way things are worldwide. If you open your office on Sunday in China and you have to deal with offices in, say, Hong Kong or Canada for that matter, where they are closed on Sunday, you really cannot conduct your business as efficiently as you could. You will find a lot of other countries would structure their so-called day of rest, but mostly just for governments, not anything else, and say, "We'll close on that day." But you will find, for example, there is no rule that I am aware of, in China, in Hong Kong, in Taiwan and even in Japan, for that matter, that says, "Government rests on Sunday, so everybody has to rest on Sunday."

Mr Daigeler: What I am trying to get at is whether the idea of a common pause day is a western concept or whether that is also shared in the Orient, whatever that day is. It has been argued, certainly at this committee and elsewhere, that the thought and reality of some attempt at a common day of non-work are universal.

Mr Leung: Speaking from experience—as I said, I had been in Hong Kong for many years and I was born in China—I can say with certainty that I am not aware of any so-called common pause day per se. I remember my parents worked seven days a week when I was young, until they retired. I know every office opened at least six days. In fact, all retail businesses open every day. Whether they are there for retail or wholesale, if they have a store, they open. If there is a demand for it, if there is a need for it, let the people work out their way.

I do not think there is such thing as a common pause day being recognized as, "This is the day everybody must rest." I guess by default it happened because the government, probably being one of the biggest employers in most countries, chooses to close its offices on Sunday, so you have more people taking rest on that day. At the same time, I know for a fact that a lot of businesses, a lot of the retail trade, for example, will allow their staff to take a day of rest but work it out among themselves. They do not work seven days. They still work six days, but they have enough employees in such a way that allows them to rotate in that manner.

Mr Carr: Thank you very much for a fine presentation. I notice that point (b) talks about, "Many businesses

in our community are not located in any designated tourist areas and will suffer from differential treatment." I guess a lot will depend on what the municipalities do in, for example, Toronto, whether they include Chinatown as part of the area. How much will they include and will it be this street, and so on? It is very difficult to guess what they are going to do, but I was wondering if you have any idea of what you see happening, because I think there would be a lot of pressure to have some of that area open as a tourist exemption area. Do you see that being just a certain area, or do you think it will be expanded?

Mr Leung: I am sure there will be a lot of pressure on municipal governments to designate a higher portion of Chinatowns—when I say "Chinatowns," just as Chinatown here in Toronto—as tourist. My concern is not so much strictly Chinatown, because really, if you look, there may be probably five different areas in Metropolitan Toronto where there is a good congregation of Chinese businesses. For example, at Broadview and Gerrard streets there is a very concentrated Chinese business area. In Scarborough they have a very high concentration around Sheppard and Brimley and Midland, in that area. For example, Mississauga also now is getting a high number of Chinese businesses located there. Again, the point is, why would the city of Toronto designate the Spadina and Dundas area as being tourist and at the same time deny the same treatment to people located at Broadview and Gerrard streets? Is it because their size is smaller or they happen to be less well known to the tourists?

Mr Carr: You do not see Toronto opening in some of these other areas then. Even though there is a high concentration, you do not feel they will designate that a tourist area.

Mr Leung: I can see difficulty in doing that, for the simple reason that basically you open a whole floodgate to everybody. I can see that, for example, at Danforth and Pape, people are going to fight for that to be a tourist area because it has a concentration of Greeks and Macedonians. You get into a whole big argument in terms of what constitutes a tourist area, because notwithstanding the attempt within the act, I think there is just too much grey area in there in terms of definitions. If you have a store that somehow displays certain sales, a certain portion of cultural souvenirs, does that make that store fall under the category of designated tourist area, because it has certain cultural elements contained in it? I think everything is too arbitrary.

To go back to the point I submit, we are just creating more headaches for ourselves. The fact of the matter is that Sunday openings have been tried for a little while. I can speak from my personal experience as a chartered accountant by profession that I have not heard any complaint from any of my clients and their workers saying that now they are open Sunday, they have problems. They all know their rights were protected, ie, that if they do not want to work on that day, they do not have to. They always have open and frank discussions with their employers and say, "Who wants to work on that day?" In particular, in light of the current economic situation, a lot of workers are fighting to work on Sunday because they get double pay for the same amount of work.

I can understand the purpose of this bill, but I think it would have been a hell of a good bill if we had stopped at the point where we say a worker has a right to refuse work and the worker is entitled to 30-odd hours of consecutive time off, and then let the employer and the employee work out their problems in terms of scheduling. That is what it all boils down to; it is just scheduling.

Mr Carr: Do you have any idea of what is happening, for example, in British Columbia, where there is open Sunday shopping and so on, what the feeling of the Chinese community is in that area? Do you have any idea whether they like it or are opposed to it out there?

Mr Leung: I cannot speak on behalf of the Chinese communities in Vancouver, but if the feeling of the Toronto Chinese communities, including Metro, including Scarborough and Mississauga, is in any way typical and reflective of those in Vancouver, which I suspect it will be, then I think most members of our communities favour opening on Sunday, because that is the way they are used to it. That is where they came from, everything basically open Sunday, with the exception of the government offices and possibly schools, and that is about it.

1440

Mr Fletcher: Thank you for your presentation. As I said previously, one of the main purposes of this legislation is to give workers the right to decide for themselves, to choose whether or not to work on Sunday and—

Interjection.

Mr Fletcher: It is not that good. Do not start applauding yet. It will get better.

I think one of the things is to give workers the right to refuse work on Sunday and to have that common pause day. One of the things you have said in your presentation is that the Supreme Court has decided the Lord's Day Act was in contravention of the Charter of Rights. In fact, it was in 1985 that the Lord's Day Act was struck down, but it was also in 1986, and let me just quote, "The Supreme Court of Canada decided 6 to 1 that the Retail Business Holidays Act, even if in violation of some people's freedoms, is valid legislation by virtue of section 1 of the charter."

In other words, this piece of legislation that we are amending, which went to the Supreme Court of Canada, is perfectly legal. You are right that this legislation has nothing to do with religion or anything else. It is written so that people of all stripes can have a common pause day. In fact, this piece of legislation was again upheld through an appeal to the Supreme Court of Ontario and that is why we are where we are, making amendments to it. This piece of legislation is fine as far as the Supreme Court is concerned. It is not in violation of anyone's rights under the charter.

I recognize the rights of ethnic people to their own religious beliefs and to celebrate their own religions when they have to. One thing that I think is essential is not so much to legislate that we can build up the family, but to give people the right to try to make their family life a little better. We are arguing about one day. You have six days out of the week to work, to shop, to run your business. What is an extra day for people to be at home, an extra day for people to go to a ball game, to swim, to play a sport, to

be with their families? One day out of the week is all we are asking for for people, and yet we are getting so much opposition, and I have a problem with that. We are getting so much opposition from retailers who are saying, "I want that day and I want my workers on that day."

Mr Leung: If I may ask you, Mr Fletcher, one very simple question, to go back to the opening remark you made, the attempt to protect the worker's right to a day of rest, I submit to you that within this bill the fact is that the worker's right to refuse work on Sunday or a holiday is there, and the fact is that there are requirements on the employer to allow the workers 36 hours of consecutive leave. Then are the workers not being protected in that respect? Why do you feel the protection will be increased any more by designating one day as being the day they must rest, or certain businesses have to close on that date?

If you go back to the basic philosophy, as I said, the Premier has said to us that the government feels that day is essential to promote harmony within families. I would submit to you that hundreds, if not thousands, of years of history in China, in Japan or in Asian countries have proven that you do not need to have a common day of pause to promote that objective. The better way to promote it is through education among our younger people that it is important to maintain that closeness within the family. I submit to you, for example, that when you go to a ball game, we have ball games that play on any afternoon during weekdays. I think it would be much easier if we say in the legislation that a business has to close on one day of the week, any day of its choice.

If that were the case, then I can see that the resentment probably would not be as much, but I think the resentment right now is the fact that you are saying to the people, "I want you to close on Sunday." What is so magic about Sunday? What is wrong with Wednesday? I know, for example, in my community a lot of business people said: "We are prepared to close on Wednesdays. Would you let us?" The answer right now is no because, as I read it, you have to have a religious reason to justify closing on Wednesday instead of on Sunday.

Mr Fletcher: It all depends on whether or not you meet the tourist criteria.

Mr Leung: In what way? You say "criteria." On what criteria?

Mr Fletcher: The tourism criteria.

Mr Leung: But why are you giving tourism criteria? Do tourists have more rights than us as consumers? Why should a tourist have more right to go to places? Does the fact that a certain area is visited more by tourists mean that place has more rights than a place which is less visited by tourists? What was the magic about tourists?

Mr Fletcher: Why? I think it is something the previous legislation did not have. Tourism is an integral part of this province and the economy of this province. We have recognized that.

Mr Leung: You have said that the previous legislation recognized there are certain things special about tourists. I would submit to you the government is elected to form legislation. Hopefully, it will be reflective of the realities

and evolve from time to time. I am saying to you right now that we hear so much about equality in our communities from everybody. Maybe there should be equality between tourists and non-tourists. What is wrong with that?

Mr Fletcher: One more comment?

The Vice-Chair: No, that is it.

Mr Poirier: I would like to continue with this gentleman.

The Vice-Chair: Thank you very much, sir, for that fine presentation.

1450

RETAIL, WHOLESALE AND DEPARTMENT STORE UNION, LOCAL 414

The Vice-Chair: Retail, Wholesale and Department Store Union, please, David McCormick. David, I would like to welcome you here. You have one half-hour to present. You can split that up any way you want, but I am sure the fine gentlemen here would like to ask you some questions when you are done. When you are ready, you can begin.

Mr McCormick: The Retail, Wholesale and Department Store Union is one of the major unions in the retail field. Local 414 has approximately 10,000 members, the majority of whom are directly affected by the Retail Business Holidays Act. We appear before you today to express our concerns about establishing legislation that protects the right of retail workers to the traditional day of pause and promotes stability within the retail sector of the economy.

Since the passage of Bill 113, when the responsibility of regulating Sunday openings was forced upon municipalities by the previous government, our union has made numerous presentations across the province. Our position has been consistent in reflecting our members' desire to retain Sunday as the traditional day of pause. Our position is supported by the Ontario Federation of Labour, small business, the majority of religious affiliations and many responsible employers. Furthermore, we have reason to believe that the many thousands of workers in the retail field, who are as yet unorganized, share our views in this matter.

In our submission to the committee, we have outlined a number of reasons why we believe that Sunday should remain the common pause day. Rather than dwelling upon these arguments, we would ask this committee to accept our submission to read at your leisure. We would, however, appreciate the opportunity to address those sections of the act which we believe must be altered in order to safeguard Sunday as the traditional day of pause.

We believe the intent of Bill 115 is to address the problems created by the current legislation, and we believe the government to be sincere in its commitment to a common pause day. However, it is our opinion that the proposed changes to the Retail Business Holidays Act tend to be limited to the issues of tourism and cross-border shopping. We believe that the purpose of the legislation is to benefit retail workers by making available to them a weekly holiday which coincides with that enjoyed by most of the community. Further changes to the act are required to prevent establishments such as price clubs from having an unfair

advantage over their competitors by being permitted to operate seven days a week.

Clauses 1(1)(b) and 1(1)(c) of the present act must be amended to reflect the following:

“‘Retail business’ means the selling of goods or services by retail or wholesale to any member of the public, including a member of a club or co-operative or any other group of consumers.

“‘Retail business establishment’ means the premises where a retail or wholesale business is carried on; any space or stall in markets, particularly in covered markets and flea markets is considered to be a retail business.

“‘Principal business’ means that portion of the business which accounts for 80% of the business is gross sales.”

During the past few years, the once-held concept of pharmacies has changed rapidly. In many instances, the primary source of income for these establishments is no longer limited to the health care field. They have expanded not only in their selection of merchandise and services but also square footage, encroaching into the area previously provided by supermarkets and convenience stores. Although we have no desire to limit their direction of growth, we do, however, believe that if they intend to compete in the same market as supermarkets and convenience stores, these establishments should be restricted by the same legislation.

We would recommend that clause 3(2)(c) of the present act be revised from 7,500 square feet to 2,400 square feet; and add a new clause 3(2)(d), “The number of persons engaged in the service of the public and the establishment does not at any time exceed four, including the pharmacist, who must be present in the establishment during business hours.”

We feel that should an emergency arise where a person is in need of pharmaceutical products, a limitation of 2,400 square feet and a limitation on the number of persons to four would provide ample opportunity in every community in the province of Ontario for the population to receive needed prescriptions or medication.

In deputations before the standing committee on administration of justice dealing with Bill 113, our union, along with others, forewarned the government of the day of the problems that would be created with the municipal option. We expressed our belief that only a province-wide uniform law administered by the provincial government could guarantee a uniform day of pause and safeguard retail workers' rights. It is the position which we hold today.

We do, however, recognize the financial cost associated with transferring the responsibility for regulating the traditional day of pause back to the province. Thus, we would ask this committee to recommend that the new subsection 4(8) be modified to state, “The council's decision may be appealed by any interested party to the tourist exemption board.”

In our opinion, the reference to “tourist areas” in the current legislation has lent itself to too wide an application. It has created confusion, inequities and an unfair application of the law. If the government had heeded our warnings in 1975 when the original legislation was enacted and had used the term “resort areas,” many of the problems we are now facing would not have materialized.

We believe that in many instances the designation of tourist areas has been done without appropriate consideration of

the impact it will have on the retail sector; that these exemptions have created an unfair playing field with one retailer having an advantage over his competitors strictly because of geographic location. We believe that until this problem is corrected, the right of all retail workers to a common day of pause will be jeopardized.

In our opinion, the proposed tourist criteria are far too broad in scope. We would recommend that the government establish a committee consisting of representatives of the affected groups, including employees, in an attempt to reach a consensus document on a new set of viable regulations.

In our opinion, the current legislation has failed to differentiate between the maintenance and development of tourism for the recreational and buying needs of the tourist and the promotion of shopping as a recreational activity for the community. Thus, we would recommend the new subsection 4(1) to read:

"Despite section 2 and subject to clauses 4(1)(a) and (b) below, the council of a municipality may by bylaw permit retail business establishments in the municipalities to be open on holidays where it is essential for the maintenance or development of a tourist industry and where it is essential to meet the educational, cultural, leisure and recreational needs of the tourist; and

"(a) only retail business establishments that have a total area used for serving the public or for selling or displaying to the public in the establishment less than 4,000 square feet; and

"(b) the number of persons engaged in the service of the public in the establishment does not at any time exceed four."

By allowing only stores that are under 4,000 square feet with four persons employed to remain open in tourist exempt areas, this may ensure that the above principle is adhered to.

During the past two years, local councils across the province have been besieged by requests for Sunday openings. The current legislation has forced these councils to deal with an issue they did not ask for and do not want. In order to alleviate the pressure brought upon these councils and to protect retail workers' rights to the traditional day of pause, it is in our opinion essential for the common pause day principle to be contained within the legislation. Therefore, we recommend that the new subsection 4(2) read:

"The council, in passing a bylaw under subsection 1, must maintain the principle that holidays are to remain as a common pause day to ensure that they remain: days on which most businesses are not open; days on which most persons do not have to work."

It is our opinion that the government's new amendments do not adequately address the question of enforcement. As retail workers and taxpayers, we believe it necessary to provide a means to enforce the legislation both efficiently and effectively and would recommend that subsection 8(1) be amended to reflect the following,

"Upon the application to the Supreme Court by any affected or interested party, the court may order that a retail business establishment close on a holiday to ensure compliance with this act or regulation under this act."

In our opinion, amendments made to the Employment Standards Act will not protect retail workers who would wish to refuse to work on the day of pause or statutory

holidays. Evidence given before the select committee hearings dealing with Bill 113 and Bill 114 supports this belief. A manager of Canadian Tire stated: "You can pass any legislation you want, but the mere coercion of a promise of promotion is enough to force an employee to work on Sunday whether he or she wishes to or not. Indeed, there are ways of getting rid of an employee who one does not wish to have along or who is unco-operative, simply by scheduling him or her on a Thursday night when that person has classes or some other time that is very inconvenient."

If nothing else, the recent escapade with Sunday shopping has proven the truth of his forecast. Many employees who did not want to work on Sunday, particularly in the unorganized sector of the economy, were persuaded to see the corporate light. Employees were informed that if they did not want to be a team player, then perhaps they had chosen the wrong career. To small businesses, particularly in malls, the relationship between lease renewal and Sunday openings was described.

These are the realities of Sunday shopping. The only effective protection retail workers have is the Retail Business Holidays Act. The only way to ensure that most retail workers are entitled to a common pause day is to ensure that most retail establishments are closed.

In closing, we would refer to the majority decision written by Chief Justice Brian Dickson in the Supreme Court of Canada ruling on Sunday shopping. In interpreting and applying the Charter of Rights he said, "I believe that the courts must be cautious to ensure that it does not simply become an instrument of better situated individuals to roll back legislation which has as its objects the improvement of less advantaged persons."

We would hope this committee shares the opinions of Chief Justice Dickson, that it too believes the object of the legislation is to benefit retail employees by making available to them a common day of pause. We would hope this committee believes that our laws must reflect not only the needs of society, but also the values; that they must be designed to respect the rights of all our citizens; that traditional family values should be entrenched rather than eroded; and we would hope that your recommendations will reflect this concept. Thank you.

The Vice-Chair: Thank you very much, Mr McCormick. I have to apologize. Can you please state who you are and where you are from, just for the record, if you do not mind.

Mr McCormick: David McCormick, Retail, Wholesale and Department Store Union, Local 414. I am a grocery clerk with A&P Food Stores.

The Vice-Chair: Thank you very much, David. Each caucus has five minutes.

Mr Elston: I wonder, Mr McCormick, if you heard our previous presenter talk about the traditional family structure in his community, the oriental community, and can advise us how we are to balance his traditional family structure with the new act and the things you have asked us to include in the bill.

Mr McCormick: I think when you are looking at traditional structures or whichever way you want to look at it,

you are not going to turn around and say to one individual or another, "Your family is going to do this; he's right and he's wrong," but the time must be provided for them to do it. As a retail worker, we work probably five out of six Saturdays to start off with. The only time we can make plans together as a family is on Sunday. When you turn around and take that element of not being able to make plans on a Sunday maybe one week or one month or even one year ahead of time, then you are throwing your whole structure out. For a lot of the married women I have worked with over the years, and particularly in cases of single women, they are turning around and saying to their children, "Okay, we're going to send you to a baby-sitter," or, "Our family is going to look after you." It has a negative impact on the stability within the unit itself. It does not have a positive impact.

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Mr Elston: I think we have heard from you that financial imperatives are compelling some people to work on Sundays and that is one of the reasons you want to have tougher enforcement provisions in here. Is it your view that if there are six days available and one common pause day, the six days available should be enough for any of the people to make a reasonable return in work? In your union, that is; you represent them.

Mr McCormick: What you are looking at right now is that within our union itself, most of our contracts call for double time on Sunday. What will happen with Sunday shopping is that over the years that will be eroded until you will be looking at a shift premium, probably somewhere in the neighbourhood of a dollar an hour. I will use part-time employees, because full-time have 37 hours. Part-time employees, instead of working 20 hours during the week, are going to work 20 hours, but it is going to be eight hours Saturday and eight hours Sunday. The actual additional money will not be there in the long run.

Mr Elston: I was thinking in terms of, if you look at it, a person has six days out of the seven to be available for work. It is the position of your local and your union that basically that should be enough for the employer to ask you to work?

Mr McCormick: Yes.

Mr Elston: What happens if traditionally my religious day is not Sunday but is in fact Saturday, and as an adherent, on Saturday I cannot perform duties in the retail business community? Would you say it is a penalty then to the members of your union to be unable to accept work on Sunday because they choose Saturday as their holiday?

Mr McCormick: Under the full-time collective agreement, you are still working five days. If that impediment came up, then they would be working Monday to Friday with Saturday as a day off.

Mr Daigeler: We have not mentioned this yet, but we have had many representations from the unions and we have also had many representations from the retailers, and they seem to be contradictory—not seem to be; they are. Many retailers, say for business reasons and for creating employment and everything else, want to be open, and the

unions are saying, the workers are saying, "No, we want to have the day of rest."

Is there any attempt between the unions and these employers to get together and work something out? Really, I have a hard time coming to grips with this confrontational and adversarial orientation that seems to be there. I will say the same thing to the employers. I really think that perhaps it is time for you who are most affected by this to sit down and work something out, rather than asking government to enforce the solution. I do not know whether you have a comment to that.

Mr McCormick: I guess the comment I would have to look at is the fact that you are always going to have some form of adversarial role between employees and employers. Quite often we can look to the government to facilitate in finding some sort of means of accomplishing it.

To throw Sunday on to the table is going to be an extra confrontation at every set of negotiations that ever comes along between an employer and an employee. Sunday will be an issue. Employers will continually turn around and try to get you to work for less. It has happened out west. I believe in BC now your premiums run around \$1.50 an hour for Sunday work, whereas in Ontario, within the organized sector, most of it is running around double time. That is something that will happen. You are going to have that sort of an erosion and it is going to be an additional confrontation on the table.

If you go back to the select committee hearings during Bill 113 and Bill 114, the Committee for Fair Shopping at that time turned around and said, "Don't put it under the municipal option." That committee was on side at the time. It has only been since you have had the municipal option that they have turned around and gone away from what used to be the same group we belong to, in a commitment to keeping Sunday as a common day of pause.

Mr Carr: Thank you for your presentation. This week the Premier said he feels the government has achieved its objective of creating a common pause day, as did the Solicitor General in his opening statement in this morning's press release.

You say on page 9, "These exemptions have created an unfair playing field, with one retailer having an advantage over his competitor strictly because of geographic location; and we believe until this problem is corrected the right of all retail workers to a common day of pause will be jeopardized." Do you think the Premier is wrong, then, when he says he has succeeded in creating a common pause day with this legislation?

Mr McCormick: I think the Premier is probably looking for some guidance from this committee as to exactly what he is looking for. Out of that I think you have an original package coming in. Perhaps when this committee comes back it will be modified. We are hoping to see our proposals put into it. I would not say the Premier is wrong. I believe he is committed to a common day of pause.

Mr Carr: But if the legislation is the same then he will be wrong, presumably.

McCormick: If the package I was presented with originally goes through, there are going to be as many problems with the legislation as there are now.

Mr Carr: What about your experience with some of the other situations? I think you mentioned BC where instead of time and a half they are getting \$1.50 an hour or whatever. Is your union out in that area fighting to repeal Sunday shopping? What have their activities been out there now since they have it?

Mr McCormick: Unfortunately, what has happened there is that Sunday shopping has basically become entrenched. When you deal with a municipal option as they have in BC, once one area opens up other areas are forced to open up for economic reasons alone. Unfortunately the reverse does not apply. Once the consumers become accustomed to the seventh day of shopping, they expect it.

Mr Carr: One of the chaps from North Bay said the same thing, that right now they are getting double time for the union up there and that they are lining up to work on Sundays because of the good premium. He said they have enough workers because of that incentive, but he said the same thing, that if Sunday shopping becomes acceptable this will be eroded and will not become a premium over time. That will be just another day and you will not get the premium. For your union, in your estimation, does it really come down to an economic question that you are looking at?

Mr McCormick: It is not just economic, I would say. Originally, when they started opening up on Sunday there was a lineup of people to basically work for double time, but as that process continued month in, month out, all of a sudden it was trying to find someone, so even the money aspect of it was not enough.

Slightly before this last ruling came out there were cases of one store having to call another store, particularly in areas like your bakery or your meat department where you require qualified people and where you would not get anyone in the store to work. They simply said: "No, the money isn't worth it. I want some time with my family." That was the pattern that started to happen after a few months. Originally they did not have a problem getting people to work for double time, but even that turned around and people started to say no near the end.

1510

Mr Kormos: I want to talk about the adjudication on applications for exemption. You raised that as an important area and one which obviously generated some concern in your union. I am familiar with the concern it has caused in a whole lot of other places, and that is to say that municipal councils, as the deciding body, maybe are not the most appropriate organ or institution to use. Again, you indicate your long-held position is that there should be a provincial body which would ensure uniformity from municipality to municipality.

My problem is that there are city councils and then there are city councils, and there are councillors and then there are councillors, and to call upon a city councillor or a city council to perform a judicial or quasi-judicial function is contrary to what they are supposed to be doing. They are there to make political decisions, just like legislators are

sitting to make political decisions, with the responsibility that attaches to that. This is just a very general statement. I am not singling out any particular council, least of all the good people in Welland and Thorold who are dedicated, ethical and outstanding people. I am hard pressed to feel confidence. I have real problems, and I think you do too, with the fact that city council is going to be called upon to do that. Let's face it, there are all sorts of forces working to influence that council and hopefully will be dealing with regulations that will set standards that will be somewhat more forceful than the standards that are here.

You say you recognize the associated financial costs. Some of the critics have said: "Yes, but those costs similarly are going to be borne by city councils. As it is now, with the present legislation, there are still going to be costs. Councils have to hold hearings. They're going to have to spend time dealing with the matter. They may have to retain consultants or certainly these are the legal costs."

What did you have in mind when you thought, as you clearly did, of a provincial body? I am very much inclined to agree with that proposition. I think that is the smart way to go. Not to go that way is not a very smart way to go and it is going blow up in our faces. What did you have in mind when you were talking about provincial bodies?

Mr McCormick: I guess the easiest way of putting that is by being quite frank. If this committee turns around and says, "We're going to forget about the municipal option and throw it out the window and we're going back to the provincial board," we are not going to say, "Oh no, don't do that." We are not opposed to turning around and taking it right out of the hands of the municipal option, just getting rid of that municipal option, at all. We do not have a problem with that. But we do say if you are going to have a municipal option in there, at least have a form of an appeal procedure, and it cannot be just that one aspect.

There is a common pause day principle, that we are asking to be written right into the legislation, that turns around and says: "Okay, you're a council. You're going to have to recognize these factors within the legislation first." In other words, if you are not going to go on the common pause day principle, a day when most businesses are going to remain closed, you are going to be in violation of the act. It has to be a total package.

Mr Kormos: But if you had your druthers, would you rather have a provincial body than local? We dumped all over the Liberals, rightly so, when they invented municipal options when we were in opposition. It was not perceived by us as being an effective way of dealing with the issue and I have the same feelings about it now as I did 12 months ago. If you had your druthers, would you rather have a provincial body or would you rather have it dealt with by municipalities?

Mr McCormick: We would much rather have it as a provincial body. There is not a question in our mind that we would sooner have a provincial body and not bother with the municipalities at all. Unfortunately, we do not think we are going to get it.

Mr Kormos: Why do you say you recognize the financial costs associated with transferring the responsibility? Have you assessed the cost factor in that?

Mr McCormick: What we have been told is somewhere in the neighbourhood of \$6 million. I personally have not talked to someone who is going to say, "That's your cost of switching it back." That is the information I have been given.

Mr Kormos: Have you or your people considered the prospect of recouping whatever costs are involved by virtue of licensing fees or application fees similar to how the Ontario Municipal Board, for instance, charges? I think OMB has a fee structure; if not, certainly local boards have fee structures. Would that not be an alternative or a means of removing that cost burden?

Mr McCormick: I am really not in the position of knowing that much about the financial aspect of it to comment a lot on it. I can just refer to what I have been told about that, what they assumed the cost would be to switch it back. If it comes down to the fact that it can be feasibly done we would much sooner have it back in the hands of a provincial body and forget about the municipal option completely. But again, that is something that would have to be worked out at a level higher than ours.

Mr Kormos: Well, here you are.

Mr McCormick: A higher level.

Mr Kormos: I am not sure of the higher level, but certainly you came in the front door and not the tradesmen's entrance, no two ways about it. I have some real concerns about the municipal option.

BRENDA STINSON

The Vice-Chair: The next presenter, please. Good afternoon, Mrs Stinson. You have 15 minutes. You can use that however you want, but I am sure these gentlemen would like to ask you a question or two. Just be comfortable and begin when you want to.

Mrs Stinson: My name is Brenda Stinson. I have a small retail outlet of children's clothing in the Beach called Kit and Kaboodle. I believe you had one of my neighbours in here this morning, Karey Shinn. We are neighbours, but we are of opposing views.

I have attended many meetings on Sunday shopping, the most recent being in May, attended by our local MPP, Frances Lankin, and councillors Tom Jakobek and Paul Christie. They have all been very interesting meetings. It is quite interesting to hear what everybody has to say. Just being a small business merchant and a citizen of the city of Toronto, I have come away with one very strong conclusion from all this, that this whole thing has gotten bogged down in legislation and definition. I believe it is time we sat down and just had a little bit of common sense applied.

People in our area have demonstrated and verbalized, especially at the last meeting, that they want Sunday shopping, they enjoy Sunday shopping. A Sunday in my store services the people in my community; 70% to 75% of the people who come into our store are local residents. There are families in my store making a major purchase of snowsuits or a back-to-school wardrobe and they need the time

and the input from all members of their family. There are families that have found evenings and Saturdays too busy.

These same families are annoyed when my store, Kit and Kaboodle, is closed on Sundays. They are also confused, which is another issue, as some stores are allowed to stay open and others are forced to close. Some feel the stores that are closed are too prosperous and do not wish to be open and therefore take their business elsewhere. Others respond by putting off their purchases for Sundays to weekends or vacations in the United States, all of which is supported in government-published statistics on travel and purchases in the States, customer feedback in my store and my own personal statistics.

Basically, when I was forced to close in July 1989 and then allowed to open in July 1990, my net income was up by 8.9%. This July it was back down by 9%. Further, as a result of Sunday closing I was unable to afford to hire another student for the summer. This was the general response of merchants on our street, that they were unable to hire anybody else to work in their stores for the summer. We offer employment to the people who live in our area. This was shown in a survey done by John Winters and Associates this spring, showing that 40% to 50% of the stores are owned and managed by Beach residents and 50% to 60% of the part-time are Beach residents. Our community and our retailers need Sunday shopping in order to survive.

As reported on the news today, we do not believe Sunday shopping will "jump-start" the recession. We want Sunday shopping. Customers want Sunday shopping. We are not greedy. We will not exploit our workers. We are trying our best to serve our customers' needs and make a living. We do not believe that this committee considers retailers second-class citizens. All we are doing is asking you to acknowledge that times have changed. Employees want to work on Sundays, customers want to shop on Sundays and retailers need to stay open on Sundays in order to remain competitive. Short and brief, that is it.

1520

Mr Daigeler: Thank you very much for coming before the committee. You indicated you were a neighbour. Are you just a business neighbour or do you also live in the Beach?

Mrs Stinson: An actual neighbour, yes, one street over. Our children go to the same school and play together.

Mr Daigeler: Is your store where you live as well?

Mrs Stinson: Yes.

Mr Daigeler: I see. That is a good concept; that is perhaps the best concept.

Mrs Stinson: So I have it from all directions.

Mr Daigeler: You indicated you were on opposing sides of the coin. I am not sure, because Ms Shinn actually indicated she is in favour of wide-open Sunday shopping. She is just opposed to designating the Beaches, I guess, as a tourist area because that would bring too much traffic there. She has nothing against the idea of wide-open Sunday shopping. Do you share that view as well?

Mrs Stinson: I share that view, yes.

Mr Daigeler: So you are not really that opposed.

Mrs Stinson: Actually, that is interesting because the other meetings I have attended over the last two years have been opposition to Sunday shopping. One was held, I believe, a year ago April or May, which was when we were discussing Sunday shopping, and then this May again, of course, there was opposition to a tourist designation. So it is refreshing to hear that. I did not realize she had had a little bit of an about-turn.

Mr Daigeler: Actually, I was surprised as well to hear her say that, but she was very firm on that.

Mrs Stinson: Good, because our area does want it.

Mr Daigeler: She thought if all the stores were open then there would be less pressure on the Beaches, and then she would not have any objection.

Mrs Stinson: That is it exactly. I agree.

Mr Carr: Thank you very much for your presentation. My question relates to what you see happening with the battles that will happen internally, literally pitting neighbour against neighbour, although, as you say, it sounds like you are almost on the same side. How do you see that happening? Do you think that will be divisive? Presumably both sides will go before council for the tourism area. Do you see that creating a problem in your neighbourhood?

Mrs Stinson: The tourist designation might. I agree that our dichotomy cannot support a tourist designation. We do not have the parking, we do not have the facilities to accommodate that. As a business person, to swing it around—I am not sure if I am answering your question—we opened our store to service our area. A lot of the stores, I would say a good 50% or 60%, open their stores to service the area. So as far as the tourist designation goes, that is a little bit of a bonus. People come to our area just because it is so unique.

As far as pitting neighbour against neighbour, I think we are all in support of the fact that we would like to preserve our community. We really enjoy living in our community. People are welcome to come to our community but we do not want there to be an influx of people on one particular day of the week because that is the only area east of the Don Valley Parkway that is open.

The general feeling in our area is people do not mind working Sunday. We are a real mix of people who are entertainers, broadcasters, politicians, retailers, whatever. My husband travels Sundays. We all realize it is just the way of the world now that some people have to work on Sundays. But as far as designating our area a tourist area, I think we are all in support of the fact that we would like it maintained; we would like wide-open Sunday shopping.

Mr Carr: I take it then, because that is not an option on the table now, that you will be attempting to go before council to get the tourism exemption?

Mrs Stinson: That has been put forth. I was explaining why our area does well on Sunday. That is our cloak. That is our way of trying to survive. A lot of the businesses down there are independently owned and that was our survival. This is a little bit of a tough economic time. We are all having a tough time and the Sundays were able to help us get

through it. They certainly did when we were allowed to open for those nine months, and it really hurt this spring.

Mr Carr: How will they do it? How will they decide whether you are going to take a tourist exemption? Will there be some type of vote from the businesses, or how do you see it working?

Mrs Stinson: From what I heard going on here, people want people to communicate. If we as the Beach retailers communicate with the Beach residents, most of us, 40% to 50% of us being residents in the area, I think the communication will be fairly good. So as a tourist-designated area, we will not exploit the area.

Mr Fletcher: This goes back to this morning's testimony or brief by Ms Shinn. You are saying most of the people you service are people who live in the area, yet this morning Ms Shinn was saying this is true, but a lot of the people who were coming into the area were from outside the area. It created traffic jams or more traffic, more people on the streets and that is what she was opposed to. Is that what you see or is it just people who live in your area? It is not from 40 kilometres away, it is not from elsewhere in Toronto, it is just your area that you service.

Mrs Stinson: You have asked a number of questions. I will try to sort them out. Number one, our area is a tourist attraction. There is no getting away from that. It is a unique part of our city. People come to it whether it is designated a tourist area or not. Sundays and Saturdays are very busy and people come from out of the area.

As a retailer—and I can only speak from what happens in my store—on Sundays 70% or 75% of people who come through the store, who make major purchases, are people who live in the area. The tourists who come through the area on a Sunday are often lookers and they are often down there to enjoy something other than the actual retail outlets on the street.

Mr Fletcher: You also said that during the time when we had wide-open Sunday shopping it was great, because the amount of traffic went down, the number of people in the area went down.

Mrs Stinson: It was consistent. It was not that it went up or down, it was just a lovely consistency.

Mr Fletcher: Do you believe in the concept of a common pause day?

Mrs Stinson: I do not know if it is applicable to the 1990s. I believe in a common pause day but I think it is more individual. I do not think it can be province-wide.

Mr Fletcher: Common pause, common sense; it is all common.

Mrs Stinson: Maybe that is it.

The Vice-Chair: I would like to thank you very much for taking the time to come and talk to us today.

1530

HERBIE'S DRUG WAREHOUSE

The Vice-Chair: Next we have Herbie's Drug Warehouse, Herbert Title. I would like to welcome you today. You have 15 minutes. You can divide that however you want, but I am sure the people up here would like to ask

you questions. Can you please tell us who you are and where you are from for the record before you start?

Mr Title: My name is Herbert Title. I reside in Mississauga and my stores are scattered around Ontario. You probably know my stores more commonly as Herbie's Drug Warehouse. You have probably been supplied with a six-page submission of what we have prepared but I will not read you the six-page submission.

I would like to tell you a little bit about myself, my growth and the reason for Herbie's Drug Warehouse. I am a pharmacist. I am probably one of the few druggists operating chains of stores. I graduated way back in 1949, but as soon as I graduated I spent the next five years working for others, 7 days a week, 12 hours a day. When I had saved up enough money I opened up my first drugstore back in 1954. I did not realize what work was until I opened that store. Then I spent 15 hours, 7 days a week.

I got involved in discounting a long time ago. I am the individual who created the initial concept of the Bi-Way Stores and I opened and operated that first Bi-Way store. We were small in those days. Today, in my Herbie's stores, I now employ 487 people.

We object to stores being forced to close by virtue of the size. The Liberals introduced what we, within our profession, laughingly refer to as the Shoppers Drug Mart bill. It is rather laughable, because 7,500 feet suited Shoppers Drug Mart, but it has never suited us. We object to being stifled in our ability to grow and to compete. We need a larger store. I recognize this is difficult for some to understand, but 45 years ago when I entered this business, the drugstores then were 900 and 1,000 square feet, no larger. The largest grocery store was about 3,000 square feet. In this morning's Globe and Mail, Knob Hill advises that they are opening their 340,000-square-foot store.

What is so terrible about a drugstore that is less than 10% the size of one of your larger drugstores? It is a reflection of today. It is today. This is what the people want. There is a misconception that we can legislate what the people need. That is a fallacy, because in retail we learn there is an axiom: Provide the people with what they want if you want to succeed.

Today, every business encroaches upon other businesses. We do not balk when we see Canadian Tire run sales on Band-Aids or on school supplies. That does not negate the fact that they are a hardware and automotive supply store. We do not balk when we see Shoppers Drug Mart operating stores under the name of Shoppers Drug Mart Food Baskets. They compete with the food stores and that is okay. That is the way it should be. This is a free democracy and we should be allowed to compete in our own way.

The core business of Canadian Tire is automotive, the core business of Shoppers Drug Mart is the drug business and the core business of Herbie's is the drug business, always has been and always will be. With perhaps the exclusion of one of my larger stores where it is 57%, that core business is 75% drugstore-oriented and the products revolve around those drugstores.

The Shoppers Drug Mart people found it very convenient to have their stores set at 7,500 feet because it meant

at that time, with Bill 113 coming in, that stores like Herbie's would have to close and therefore they would not have my kind of competition. They are high priced relative to our type of structure. We save our consumers between 12% and 20% certainly at least 20%, on the dispensing fee.

Seven-day service is critical to my survival inside the drug business. I operate small drugstores as well as my large drugstores, but it is all really the same. You need the seven days. We have a right to be there—it is a historical right—and we certainly have a responsibility to be there for our patients.

It is important that you understand. Too often I am told, "If they can't shop your store on a Sunday they'll shop your store on a Monday." That is wrong. Aches and pains do not wait. Why should people who get ill on a Sunday be forced to pay more at a store not of their choosing? It does not make sense.

It is also equally important that you very much understand this: By closing me on Sundays and on statutory holidays you close me 60 days a year. That is two months out of every year. How many of you can afford to have your income cut off for two solid months? I cannot. I cannot afford it, my staff cannot afford it. It is not right, it is not fair and it certainly is not necessary.

I have to compete with not only Shoppers Drug Mart, which is open 12 months of the year, I have to compete with the Americans. It is foolish for us to stick our heads in the sand and ignore the fact that the Americans are there. Anybody who lives within three hours of the United States is going over to the United States to shop. They are shopping at American drugstores, and I have to compete with them. Why force me to close? Why not allow me the opportunity of being able to compete with those Americans? If I am closed they are just going to get over there and shop there.

Closing us on a Sunday may be acceptable to those who are affluent: They can afford to drive to the next store; they can afford to go over to the Shoppers Drug Marts and the Pharma Plus stores, which charge more; they can afford to get in their cars and cross over the border. That is okay for the affluent, but those who cannot afford it cannot do it.

Bill 115 did not exist when I committed myself to all of our existing leases, my existing contracts, my legal obligations and expenses. I cannot afford to have that cut back. Sundays represent 17% of my company's business.

It is unfair to force high prices on the individual. I would like to read from page 5 of my report, paragraphs 4 and 5, if I may.

By causing our large drugstores to close, Bill 115 will force the prices of prescriptions and other health needs to rise at a time when both the provincial and federal governments are trying to contain high health costs.

It is imperative that you understand all the fine nuances that separate the drugstores, large or small, from all other retailers regardless of the crossover of products. We are pharmacists first, responsible to our governing bodies and controlled by a code of professional ethics not imposed upon other retailers.

There is another strong difference that all of you must understand, because too often we are compared to other

types of stores. I am a drugstore, and by being a drugstore and being accredited by the Ontario College of Pharmacists I must have a pharmacist present, because if my pharmacist is not present I am not allowed to open my doors. I am not allowed to continue with my retail operation if my pharmacist is not present. That does not apply to supermarkets with pharmacies and others.

We cater to the poor. Certainly we cater to the unemployed. We cater to the single parents and to all those who need drugs and drug products at lower prices. I will read from page 3, paragraph 5 of my submission.

Our Sunday customers include those individuals this government wishes to protect: people on fixed incomes, single parents and low wage earners, all people badly in need of an alternative to the higher-priced traditional drugstores.

I concur with this government's ruling that nobody should be forced to work on a Sunday. I always have; I always will. Nobody in my company has ever been forced to work on a Sunday. That has always been our practice. Working shifts, a shift-type structure, is consistent with the drugstore business. Closing two days in a row, by being forced to be closed on that holiday Monday in addition to the Sunday, has been brought to the attention of the Ontario College of Pharmacists, and they are concerned that our patients will not have access to our files. Having access to our files is critically important. God help the individual who gets stuck with his physician or his hospital and does not have access to my computerized files. Certainly, you can fill a new prescription elsewhere at a higher price, but if you need the information about the drugs that an individual is on, you need access to my files, and my files are very confidential. As this government knows, confidentiality of drug files is critically important.

We were very successful recently by gaining the support of the physicians in the community of St Catharines. A bylaw has just been passed in that community specifically to allow Herbie's Drug Warehouse to be open on Sundays and holidays, and we are very proud of ourselves and we are very proud of the politicians who recognized their responsibility. The mayor of St Catharines put it very well. He said, "Although I am personally opposed to Sunday shopping, I am far more opposed to unemployment, and therefore I support Herbie in his bid to keep his drugstore open."

I will sum all of this up with just one short sentence. I hope you do not find it necessary to witness our death to realize that this patient was critically ill. Thank you, ladies and gentlemen.

The Vice-Chair: Thank you very much, sir. Each caucus will have four minutes. Go ahead, yes.

Mr Poirier: Interesting presentation, the whole question of size and the whole question of rights and the whole question of charting the whole thing, competition, free enterprise. It is rather interesting. I am glad you came forward with that. It offers an interesting perspective on that.

So you have never had a problem trying to get people to work on a Sunday.

Mr Title: No, sir. In all my years in business, I have always had a respect for the people's right not to work on holidays that are important to them, religious or otherwise.

Mr Poirier: I presume you have a list of people interested to work on Sundays?

Mr Title: We have an abundant list. There is an overflow of application for Sunday employment. There is such a fallacy out there that there is a shortage of people. There are part-timers, there are single parents, there are students. There is a massive lineup. We cannot possibly employ the overabundance of people waiting for Sunday employment.

Mr Poirier: So you think that barrier for the square footage limitation is a hindrance to you.

1540

Mr Title: It is terrible. It removes us from all forms of competition. You frustrate the ability of any entrepreneurial pharmacist to grow and expand in the real world of today. We compete with everybody, whether it be the Canadian Tire which sells our Band-Aids or whether it be the grocery store which sells our health and beauty aids, or the Americans who promote so aggressively into Ontario. We compete with everybody. We must be there. There are thousands, thousands, of items that exist today that were not even conceived of 45 years ago. We need that shelf space to accommodate these items.

Mr Poirier: I will not hide the fact that we have heard a lot of presentations from people who want to even keep it to extremely small pharmacies to open, like under 2,400 square feet. What would you have to say about that?

Mr Title: I am a discounter. I have been a discounter pretty well all of my retail life, and there is no secret to discounting. You must sell in quantity to be able to keep your prices low. I sell everything in my front shop. All of my over-the-counter drugs, all my health and beauty aids are sold at deep discount prices. If I cannot sell in volume, how can I maintain my deep discount prices and compete? I must sell in volume. To sell in volume, I must have space. I cannot display a dozen; I must display 50 dozen. Imperative.

Mr Carr: Thank you very much—a very interesting presentation. One of the groups that I am concerned about is the seniors. I in my riding have formed a seniors' advisory council to advise me on issues of importance to seniors, whatever they may be. I understand from some of the polling data that some of the seniors are the ones who are most opposed to Sunday shopping.

I was wondering if you could comment—because you are a discounter and, of course, seniors have a higher need for prescription drugs—how you see the seniors. Is it a big part of your market, how much, and how would it impact on them with the difference in prices?

Mr Title: Seniors are critical. The price of drugs is not important to them, because it is carried by the government. Therefore, they are not out of pocket. But they do favour us because of other things. We offer things the small drugstores cannot. I have free blood pressure machines inside my store that are available to them and they use almost daily. We run clinics in our store that you cannot run inside a small drugstore. We run asthma clinics to train them in how to treat asthma. We run diabetic days to try to teach them how to recognize and how to treat diabetes. The comfort

they have in having their prescriptions on our file is that they have access to it. They do not know if they are going to get ill on a Sunday or on a holiday Monday. They need access to our files.

It is interesting to me that you should say the seniors are opposed when in fact some of my strongest supporters are our seniors. We run extra discount days for our seniors. We are critically important to the seniors in each and every one of our communities.

Mr Carr: The average size of your store would be what now?

Mr Title: The average size of the store would be about, in selling area, just over 20,000 square feet. I have one very large store in Kingston that has a selling area of just over 30,000 square feet. That came about through demand in the community. We responded. It did not start at that size. We responded to the desires and the needs of the community, and we do cater to our customers. As I stated before, you give them what they want, not necessarily what others perceive that they might need.

Mr Carr: As you know, there is a lot of talk about getting tourist-exempt areas, but of course with the square footage you would have to apply individually and so on. What do you see happening in cases like that? There has been some talk that a lot of areas will be declared tourist-exempt, but when it comes to your particular field, being over 7,500, what do you see happening? Do you think most of the municipalities will opt to open your stores or not?

Mr Title: If the municipalities come into the thinking of the 1990s. It is critically important that they understand that they not interfere in the day-to-day role of business. It is the function of government to administer the spending of dollars. Government does not create dollars; business creates dollars, and we certainly create dollars for each and every one of our municipalities. I can see our municipalities, hopefully, as each and every one of them bend, supporting us in our desire. But that is a slow process. I am hoping that the province itself will see that justice is done and that we are all opened up across the board.

Mr Mills: Thank you very much, Mr Title, for coming here today and presenting your interesting brief. As a rule, I do not say too much or ask too many questions because I am the parliamentary assistant to the minister responsible for this bill you do not like. I just sit back here and listen and take notes, and we are listening and we are going to take all this information back. But curiosity has got the worst of me with your presentation.

I am no expert on marketing, but you say that you need a seven-day operating week to survive, the same seven-day week that was a factor in your decision to operate these larger stores. The biggest retail store that I can think of in Ontario is Knob Hill Farms. They take a factory or warehouse and, bingo, it is a massive grocery store. They are so big that you get lost in them, and I say to my wife, "Don't leave me because we'll get lost." Anyway, the marketing question I have is they do not open on Sunday or any other holiday; and, in fact, their motto is, "Sunday is our family day." Now, if the large stores are so critical to

make it work, what are they doing that makes it work that you cannot do to make it work by closing Saturday?

Mr Title: I cannot speak for Mr Stavro with his large grocery stores; I can only speak for the drug business. Incidentally, I should make it clear that my request of this province is to recognize drugstores. I am not here to fight for wide-open Sunday shopping. I have my own views, but I am not expressing those. My requirement is to get the drugstores open. How Mr Stavro adjusts his working structure, Mr Mills, I truly do not know, sir. But I do know that, within the drug business, if you want to sell at low prices, you must have quantity of product, you must mass display it, you must merchandise correctly, and you must give the customers what they want. That is how my business grew. My first drugstore, sir, was 3,600 feet. It is still 3,600 feet, but that does not negate the need for the larger drugstores. We must be allowed to get up there and compete. Who is going to look after the community in the future if people like myself are put out of business? Who is going to provide the discount prices? The grocery stores with their pharmacies? I do not think so.

Mr Mills: In closing, just a quick remark: I really appreciate the services that you do for nothing for seniors—the diabetic clinics, the high blood pressure. I have seen the folks hanging around, and I think that that is commendable in business, and thank you.

Mr Title: It may be selfish, because next month I become a senior citizen.

Mr Mills: I am pretty close to it myself.

The Vice-Chair: Thank you very much, sir, for that fine presentation. You did a good job.

Mr Title: Thank you very much.

1550

MIKE ANDERMAN

The Vice-Chair: Next up is Mike Anderman. Mr Anderman, have a seat, relax, have a glass of water if you want, take your time. You have 15 minutes. I hope you give enough time to allow each caucus at least one question. Please feel relaxed, and begin when you want, sir.

Mr Anderman: Thank you very much. My name is Mike Anderman. Rights currently available to both Jewish and Christian store owners under the Ontario Human Rights Code will effectively be taken away from Jews under Bill 115. Under the Ontario Human Rights Code, as clarified by the Supreme Court of Canada in *O'Malley v Simpsons-Sears*, a store owner closed Sunday and open Saturday only has to make a reasonable effort to accommodate an employee who does not want to work on his day of rest of Saturday. This would apply to a Christian store owner closed Sunday and open Saturday. The Supreme Court of Canada said there is a "duty to accommodate, short of undue hardship, on the part of the employer." For a Jewish store owner closed Saturday and open Sunday, under Bill 115, the employees have an absolute right to refuse work on Sunday. Whether it imposes an undue hardship on an employer makes no difference. It is the discriminatory result which is prohibited, not a discriminatory intent.

Ontario's NDP government says it has no intent to discriminate against Jews and other minorities under its proposed Bill 115, but here is what the Supreme Court of Canada has to say about such intent: "An intention to discriminate is not a necessary element of the discrimination generally forbidden in Canadian human rights legislation.... Discrimination...arises (from) a rule or standard which is on its face neutral, and which will apply equally to all employees, but which has a discriminatory effect upon a prohibited ground on one employee or group of employees in that it imposes, because of some special characteristic of the employee or group, obligations, penalties, or restrictive conditions not imposed on other members of the work force."

But discrimination against minorities is just what Bill 115 will accomplish. Despite the NDP government's claim that this bill has nothing to do with religion, it imposes economic penalties on Jews and others wishing to observe the Saturday Sabbath and who wish to work, shop or open a business on Sunday.

There is an absolute right available to Christians and not Jews. Christians who do not want to work on Sunday will no longer seek protection under the Human Rights Code as they will have stronger rights under Bill 115. Jews will be stuck with the weaker rights available under the Human Rights Code. For Christians who do not want to work on Sunday, Bill 115 gives an absolute right to refuse to work on Sunday. For Jews who do not want to work on Saturday, because that is their Sabbath, the Ontario Human Rights Code, as clarified by the Supreme Court of Canada, stated:

"What is required is some measure of accommodation. The employer must take reasonable steps towards that end which may or may not result in full accommodation. Where such reasonable steps, however, do not fully reach the desired end, the complainant, in the absence of some accommodating steps on his own part...must either sacrifice his religious principles or his employment."

Minority workers and consumers pay a price. Sunday closing of retail businesses limits the range of goods Saturday Sabbath observers can buy on the weekend. Would Christians who do not want to shop on Sunday like to be told they cannot shop on Saturday? It limits the job opportunities for Saturday Sabbath observers who will not work on Saturday and want to work on Sunday, making it both harder to earn a living and to find a job that is satisfying. Jewish-owned stores lose weekend business. Most Ontario retail businesses will be closed on Sunday if Bill 115 is passed. There would only be a narrow range of goods available locally Sunday from Jewish-owned stores closed Saturday. Because of the poor selection, shoppers tend to stay home or go to Buffalo. These Jewish-owned businesses lose sales because of this. They do not get a chance at the significant weekend business available to other store owners.

There is a higher standard of religious consistency and sincerity placed on Jews. Under the Human Rights Code, for Jews to opt for Saturday Sabbath observance and choose not to work on Saturday, they must be consistent with sincerely held religious beliefs. This is a higher standard of religious consistency and genuineness than will be required of Christians who do not want to work on Sunday.

Why should Christians who do not want to work on Sunday bother with the Human Rights Code when the proposed Bill 115 gives them stronger rights and requires no consistency in religious practice? They have an absolute right to refuse to work on Sunday whether or not they are consistent in their religious practice. They can accept an assignment of work on Sunday or, by giving 48 hours' notice, refuse such an assignment that they have already accepted.

The tradition of Sunday as a day of rest was forced on minorities and those who reject religion by government law. These people do not accept Sunday closing as a cherished and loved tradition. Seeing Sunday as an accepted tradition ignores the fact that it appears so only through government coercion. If Jews and other religious minorities, and those who reject religion, had been free to choose, there would be a significant tradition of shopping on Sunday. The NDP's choice of Sunday as a common pause day continues, by another name, the religious discrimination of the past against Jews and other minorities. As such, it ignores and diminishes the rights and status of those who do not observe Sunday as part of their tradition. If Saturday had been chosen, there is no question that Christian religious leaders would be outraged, which is one reason, conscious or unconscious, that Sunday was picked. It is vastly easier and traditional for Ontario governments, this time the NDP one, to ignore the rights of Jews and other minorities here in Ontario. If it had been the government's intention to give Christians special rights, it could just have stayed with Bill 115 unaltered. No different legislation would be needed.

The NDP should abandon its common pause day initiative. Inevitably, the choice of any day will discriminate against minorities, and Jews are tired of having second-class rights. Only a deeply ingrained bias towards Christian customs could have allowed this legislation to be introduced. The NDP's first priority should be to treat Jews and other minorities with dignity and to give their traditions practical, equal respect with those of Christians in the law. If that was their first priority, they would not go ahead with the common pause day. There should be no government-enforced common pause day on the Christian day of rest and no more government-enforced economic and religious discrimination against Jews and other minorities.

The Chair: Thank you very much, Mr Anderman. We have, I believe, about three minutes per caucus for questions.

Mr Daigeler: I would actually like to direct my question to the legal counsel rather than to the witness. My question arises out of the testimony. I think the witness's argument is a very interesting and important one. Apparently he is seeing a right that will be available to Christian workers to refuse work on Sunday that is not available to Jewish workers who would want to refuse work on Saturday as their Sabbath. That would be, I guess, unconstitutional. I am wondering whether the Solicitor General has looked at that question and what the view is of the legal department on that matter.

Ms Scarfone: As that area deals with the employment standards legislation, the right to refuse, I am going to beg the indulgence of the Chair to confer with the Ministry of Labour.

The Chair: Have you got any idea how long it will be before you would have any response, or should we just wait until our next meeting?

Mr Daigeler: I certainly hope we could have an answer before we go into the clause-by-clause.

The Chair: Certainly, okay. Could you record the question and pass it on for, if possible, a written response?

Mr Daigeler: If it is possible, sure.

Mr Anderman: Could I have a copy of that sent to me, if it is going to be written? I would appreciate it. If you get a written response, my address is on here. I would appreciate a copy of it.

The Chair: I have a clarification on that point. When any response comes to our committee, it is a public document and thus available to any member of the public. I believe the clerk has made note of your request, so she would probably send it off to you or make sure that happens. The clerk asks also if you could remind her.

Mr Anderman: Yes.

Mr Poirier: I appreciate your paper very much. Coming from a minority myself, obviously I took very good note of your arguments and I am waiting with much anticipation to find out what the response of the current government is on these arguments. I see your point. Thank you for bringing it forward.

Mr Anderman: I hope the NDP listens. I hope they are not intransigent and that the common pause day is negotiable. I would hate to think they are holding these hearings and just simply will not listen to these objections and take them into consideration.

Mr Daigeler: I hate to disappoint you, but we had the new Solicitor General appear before the committee this morning. He was very strong in reiterating that the common pause day principle was not up for discussion and only certain amendments would be acceptable. In fact, he issued a press release that you may want to get a copy of. That was one of the points I asked him, "Why are we holding these hearings?" We have had a fair number of witnesses who indicated, "Leave the thing along, the way it is at the present time." I should indicate to you, in all fairness, that both the previous Solicitor General and the one who just assumed his office have very strongly indicated that that particular point is not up for discussion.

Mr Anderman: Thank you for clarifying that.

1600

The Chair: Mr Carr is absent. Mr Kormos.

Mr Kormos: He sure is.

The Chair: I am sorry, my apologies. I should not make a reference.

Mr Kormos: He just went out for a minute. He will be back momentarily.

Thank you for an impressive bit of research here and argument and structure. I take it then that you would oppose any legislation that would purport to tell retailers when to open or close? Is that consistent with the conclusions?

Mr Anderman: My feeling is that minorities should be treated equally. It is not a matter of saying that you want

to treat people equally. It is the actual effect of the legislation that should be looked at. If you can come up with something that treats all people equally, I am not going to object to it. What I say here is that inevitably any day that you choose as a common pause day is going to discriminate against minorities. That is what I expect you will find. But if you can find a way around it, that is fine. Perhaps I am wrong in that perception.

Mr Kormos: I was going to try to elicit your help in that regard. But your concern about these amendments would extend as well to the legislation that was passed by the previous government, which created local optioning for Sunday opening or Sunday closing?

Mr Anderman: My concern is that we have a multi-cultural society and that minorities should be respected. What would happen if you have some municipalities open and some closed is that, for instance, Jews would have the right to shop in some parts of the province and not in others and there would be a discriminatory aspect in that. For instance, a Jewish person living in a community that did not allow Sunday being open, would have a harder time getting a job on Sunday, so the discrimination would still be taking place.

Mr Kormos: The status quo, the last government's legislation, I trust, is as repugnant to you as the amendments.

Mr Anderman: Are you asking me to comment on previous legislation?

Mr Kormos: No, I am asking you to comment on the law as it stands now, the one that is being amended by this legislation.

Mr Anderman: I somehow have lost the drift of your question. I am sorry.

Mr Kormos: These amendments, in some people's minds, really do very little to affect the existing law. Basically, they add definitions of tourist areas or tourist designations and guidelines for the assistance of councils.

Mr Anderman: They give employees an absolute right to refuse work on Sunday. If you recall, that is one of the main problems. It discriminates against Jewish-owned businesses and it effectively creates a second-class status for Jewish workers. So there is a big difference between this. These amendments have a serious discriminatory impact.

Mr Kormos: Okay, we have a problem here. We are at an impasse. Your primary concern then is with the Ministry of Labour legislation, the right to refuse work, and your secondary concern is with the Retail Business Holidays Act.

Mr Anderman: I have concerns with the Retail Business Holidays Act. It forces Jewish stores to be closed on Christmas. That is discrimination. There is no need for it in our society. I am not opposed to employees having 36 consecutive hours in every seven days. I do not find that discriminatory.

Mr Kormos: In the final analysis, though, you would conclude that a common pause day, as compared to a pause day—because you are saying that a pause day, and I think nobody disagrees with you, that pause concept is essential—

Mr Anderman: People should have 36 hours or more.

Mr Kormos: But you are saying that a common pause day cannot be acquired, cannot be achieved, cannot be attained.

Mr Anderman: It is my impression that if you go for a common pause day, you are going to be in serious conflict with respecting minorities in a multicultural society. I do recognize that earlier today you said it is traditional and it is a Christian day of rest, but as I have pointed out here, it is not everybody's tradition.

Mr Kormos: Quite right.

Mr Anderman: People are tired of being treated as of second-class status and hearing: "The Jewish tradition is just a small group. We can put economic penalties and discrimination against them." It is about time we had enough of that. It is about time everybody had an equal right. I am sure you must stand for that.

Mr Kormos: Equal rights? My God, I was there, it seems, almost in the beginning.

Mr Anderman: What I have said is that this legislation is seriously in conflict with equal rights for minorities, especially for Jews. Do something about it.

Mr Kormos: I want to understand. Your primary concern is with the Ministry of Labour, with the labour legislation, and your secondary concern is with the Retail Business Holidays Act?

Mr Anderman: I will say this. I refer in here to the sections of Bill 115 that I am concerned about. They are all listed in here: subsections 39eb(1) and 39eb(2).

Mr Kormos: Yes, they are listed.

Mr Anderman: Those are the basis of my objections. My objections are all based around those sections of Bill 115. I just cannot respond in terms of that distinction you make because I do not think in those terms. Bill 115, subsections 39eb(1) and (2), creates serious discrimination against Jews. It creates a second-class status and it imposes economic penalties on them.

Mr Kormos: I appreciate that. Again, I am not sure whether these arguments were made the last round on Sunday shopping. It seems to me that the arguments would have been as applicable during the Liberal legislation as currently.

Mr Daigeler: They were addressed.

Mr Anderman: Well, if they were applicable, it is an opportunity for the NDP to do something about it now.

Mr Kormos: What I find interesting is what the Liberal response was, because Mr Daigeler says that the concerns were raised. Because of the dilemma that you create, I am interested in what the Liberal response was to the concerns that he says were raised, that are identical to the concerns you have raised. Mr Daigeler says the concerns were raised. Perhaps research will show that. Thank you very much.

Mr Daigeler: I do not think the issue of the Jewish worker's right to not work on Saturday was raised specifically; at least I do not recall it. However, the question of whether the identification of Sunday as the common pause day is discriminatory against other religions was, I think, settled through the court decision which ruled that it was not.

Mr Poirier: So what are you going to do about it?

Mr Kormos: We might do the same thing that—we will have to look at the precedents.

Mr Fletcher: That is what we are here for, to listen and find out, and we might come up with something.

The Chair: Any further questions, gentlemen? Obviously, sir, you have stirred a great deal of profound thought on this very important issue. Thank you for coming and taking the time to present to us.

1610

MARATHON REALTY COMPANY LTD

The Chair: We have now a presentation from Marathon Realty Company, Ms Neena Gupta and Mr Ray Casey.

Ms Gupta: Good afternoon, gentlemen. I would like to introduce myself. I am Neena Gupta. I am a lawyer with Goodman and Carr. We represent Marathon Realty. Mr Casey is from Marathon Realty.

The Chair: You have approximately half an hour. Please divide that time, if you wish, between the presentation and the opportunity for members to ask questions. I see by the size of your presentation that there may not be much time left over.

Ms Gupta: I tend to put a lot more in. I fully appreciate that I probably will not get through everything I want to say about it. However, I did not want you to think that we were making up figures, so most of the stuff that I will discuss is backed up by statistical data and is tabbed. If anyone has any bedtime reading to spare, they can check whether I am making things up or not.

Some of you may know who Marathon Realty is. Marathon is a very large developer. It also owns about six shopping malls in Ontario. As landlords, they can see the erosion of the retail business in Ontario, and it is their belief that Sunday shopping, in general, would be one very useful way of promoting the retail sector in Ontario.

My concerns will be directed both to the philosophy of mandatory Sunday closing—which I understand was part of the old 1989 Liberal version of the act, but I think some of the points made then ought to be reiterated here—and the second half of my presentation will be focusing on the tourist exemption, because as a lawyer, I have some concerns about some of the drafting of the tourism exemption.

As most of us know, between July 1990 and March 21, 1991, there was Sunday shopping in Ontario. Marathon Realty began to track how many customers actually availed themselves of Sunday shopping during that period, and they were surprised at the intensity of demand for Sunday shopping.

Tab 1 of my presentation includes some of the customer traffic information that we gathered during that six-month period. We found that the average hourly traffic on Sundays in Dufferin Mall in Toronto, for example, was roughly 2,400 per hour, and Monday to Saturday was 1,800 per hour. To us that is a clear indication, in a very graphic way, that consumers appreciate having the convenience of both Saturday and Sunday shopping. There is a similar trend, although not quite as pronounced, at Place d'Orléans in the Ottawa-Carleton area.

In retrospect, we think the reason all that Sunday shopping was occurring is quite self-evident. I work, my spouse works—Monday to Friday, overtime. We do all our errands on Saturday. Saturday at 6 o'clock, we are both exhausted, and our idea of a good time is crawling on to the La-Z-Boy and watching a video. It was not the glamorous yuppie life it was made out to be. The six months that we had of Sunday shopping, we actually did our errands together. I am not anomalous. All my colleagues at work, the cleaning lady at work, our secretaries, all enjoyed it. To make it sound like it is a poor-versus-rich issue, a unionized-versus-non-unionized issue, is not true. My unionized friends—nurses, for example, policemen, factory workers—work ridiculous hours, coming home at 8 o'clock in the morning and being totally dead between 9 and 5, and they do not like shopping Monday to Friday. It makes it a lot easier having two days of shopping.

I know there are some people who say making retail workers work on Sundays is, in effect, making the most vulnerable of society pay for the convenience of the rich. It is not true. We expect taxi drivers, hotel workers, restaurant waitresses, the aviation industry, airline pilots, people who work at the airport, municipal transportation workers, nurses, doctors—everybody works Sundays. It is not unusual to work Sundays. The whole concept of a common pause day is a belief in an innocent time, when Monday to Friday, father went to work, Monday to Friday, mom did all the errands, and the children and mom and dad spent Saturday and Sunday together. That was idyllic, but it is not the way society works today.

The Goldfarb consultants' report, which I am sure you received a copy of when it first came out in December and January, indicates a surprising amount of support for shopping on Sundays. In particular, the public response was strongest where you had people who were lone parents with children, dual-income families or people who worked unusual hours. Those are the people who are hurt by legislation which forces stores to close Sundays.

I invite you to read, at some point in time before formulating your thoughts on Bill 115 on mandatory Sunday closing, the Goldfarb consultants' report. Whatever you think about the provenance of the report and whether or not it is biased, tab 3, pages 11 and 12 indicate a surprisingly strong amount of support, and what is more important, that it does not erode the family life or quality of the time spent together by the family.

At the bottom of page 11 of tab 3: 62% of Metropolitan Toronto residents felt that Sunday shopping actually gave them more time to spend with their families. If the very purpose of this legislation is to protect family life, perhaps mandatory Sunday closing is not the way to go.

Some of the criticisms I have read about Sunday shopping are concerned with two groups. One is the retail workers, and the second is the small proprietors who do not have the ability to stand up to people like my client, Marathon Realty.

Between July of last year and March of this year we did have our malls open, but we allowed our tenants to decide whether they wished to remain open. A surprising

number did. That information as to the voluntary opening of our tenants can be found in tab 5.

It is probably quite interesting to look at, because there is some fluctuation. For example, in the two months preceding Christmas, November and December, there were a fairly large number of stores open, and in the less popular shopping months of January and February there is a considerable drop. That means each tenant made the decision as to whether it was profitable for them, or appropriate for them, to remain open on Sundays. We did not come down as a heavy landlord; we did not have to, because they recognized that is what they wanted to do.

There are of course costs associated for most of our tenants in remaining open on Sundays. There is additional labour; that is a consideration. One of the ways Marathon decided to cope with that was to reduce hours of opening at other times. At the Dufferin Mall, the mall is opened later, and at Place d'Orléans we actually reduced the hours of opening by 14 hours even though the Sunday hours were only an additional five hours. It was a way of reallocating productive shopping hours and taking away non-productive shopping hours. One of the advantages to the tenant was that their overhead costs were not significantly increased.

The other problem is whether retail workers will be coerced to work on Sundays. I have tried to find statistical information as to how many retail workers, during this period of September to March of last year, felt that they were coerced or intimidated to work on Sundays and how many felt they were doing it on a voluntary basis. I simply could not find anything of that sort, although I understand that, in particular, the food workers in Ontario are very opposed to Sunday shopping.

There are a couple of things we can do to protect retail workers without banning shopping in general on Sundays. Bill 115 contains an absolute right of every employee to refuse Sunday work on 48 hours' notice. Second, one should recognize that casual and part-time workers do want to work on Sundays to enhance their income and probably can do so and at the same time protect full-time workers' desire to have a break on Sundays.

Those are my thoughts with respect to the whole philosophy of Sunday shopping, but I recognize, given the history of Sunday shopping in Ontario, that there is a significant body of opinion that believes this is the way Ontario should go. Therefore, I would like to turn to my technical concerns, particularly as a lawyer, with Bill 115. While doing so, I think it might be useful for committee members to look at the proposed draft regulations of the tourism criteria, which I have included as tab 6 of my presentation.

Mr Carr: You are so organized. You must be a Capricorn.

1620

Ms Gupta: Yes, I am actually a Capricorn.

Under subsection 1(2) of the proposed regulations you have six potential criteria that can be used to determine whether an area is actually a tourist attraction.

I am from out west and I can tell you that I think much of Metro Toronto or downtown Toronto can easily fall within 1 to 6. When I arrived in Toronto at 18, I wanted to

see two things: the CN Tower and the Eaton Centre. Those were the two lists. If the Eaton Centre was not a tourist attraction for me, I do not know what else was. I was 18, I was naïve, but I was not the only person from Canada who thought the Eaton Centre was the most amazing thing. Now, the West Edmonton Mall, of course, is better, but that is another thing. My client does not own that one, so I should not have said that.

There are enormous historical, cultural and ethnic attractions all over Toronto, and it is what American tourists come up to see. They come up to see Chinatown, they come up to see Kensington Market, they come up to see the things that make our city so much more liveable than every other city, and we want to close the whole city down.

It seems to me that you, as a government, will have a hard time excluding areas in certain cities under these tourism criteria. What you will have is councils arbitrarily interpreting these criteria depending on what their personal philosophies or what the collective philosophy of the council is, and there will not be the coherency and consistency I think my clients in general deserve.

In particular, I would like to draw your attention to number 4 of the tourism criteria which talks about, "Shopping activities which feature a unified concept or theme or other specialized shopping activities catering to visitors."

My client and I thought of a lot of things that featured a specific specialized theme, which probably were not intended by this committee. Things like discount malls, furniture malls, automobile malls, even discount fashion malls—all of these exist within the greater Metro region and can arguably be a specialized shopping activity. But the catch is, you say to me, you have to cater to visitors. And I ask you, what do you mean, cater to visitors? What is a visitor? Am I visitor when I go to Mississauga or not? You have not told me. None of the regulations here define what a visitor is.

I do not think that is particularly wise or fair or workable, nor philosophically am I willing to concede that somehow we should have areas, because they cater to visitors, open on Sundays while the rest of us Torontonians to do not get a chance to enjoy it. And if perchance a business starts to attract too much attention from Metro Toronto residents, you are going to yank it away because they do not fulfil the criteria any longer.

The other serious concern I have about the tourism criteria as they are drafted is that there seems to be a significant unequal treatment of businesses in the same area, depending on whether they are larger or smaller. I could not figure out the philosophical justification for that. It is true, bigger businesses employ more people, but they are able also to hire more casual and part-time workers and adjust their workers' schedules to help each worker obtain a Sunday day of rest or another day of rest that they want. If you have a small business with two employees, the flexibility is not there. So if you are trying to protect people in the retail sector, there does not seem to be a reason to stop big businesses from opening.

I know it is popular to bash big business; it is easy to do, but it is not necessarily fair. Places like our large tenants attract customers for all of our smaller tenants. It is

the way every single mall works in Canada. Big business is not bad. Without the big businesses our small businesses could not feed off them. That is the way it works.

Why should you handicap big businesses which have the ability to adjust, who are often unionized so they have to, through the collective bargaining process, negotiate things with their workers and often offer higher wages than the minimum wage given by full proprietors or small businesses? So why should you handicap them in a tourism area? What you are allowing, I suppose, is the tourist traps to remain open and the big businesses have to stay closed on Sundays. I do not know how many tourists are going to appreciate that.

Finally, I have some concerns about municipal councils being given the right to decide whether something falls within the exemptions in the tourism criteria. Municipal councils mediate and compromise between different interests in a city, but they are not really equipped to decide whether this application fulfils these technical criteria and that application does not. They are not equipped to say, "Well, this city has this precedence of interpreting this particular phrase, so we should be consistent with that." The kind of job that you have assigned municipal councils is a job that your regulatory boards do every single day.

If you insist on doing something like that, then go one more step and have a professional group of people who have experience in determining how applications should be adjudged and who are subject to the same kinds of checks as your Ontario Municipal Board or your Labour Relations Board. It is only fair. We should not be, as businessmen, subject to the whims of a particular council, which is not necessarily unbiased, because they are elected officials who have to account to their particular constituency. It is not their job to be judges. We have never allowed them to be so; and I do not think these regulations ought to make them so.

One last complaint. Under tab 7, I have found a possible definition of "tourist," but I have been trying to find the official definition of "tourist" and I do not think there is one.

Mr Poirier: We are working on it.

Ms Gupta: In my formal presentation which is written, it acknowledges that we cannot establish or verify the provenance, but it suggests that a person who is from out of the province or out of the country is a visitor or tourist—that makes sense—or anybody who travels 40 kilometres or more is a tourist.

It seems to me that in the last two years, I have been seeing a lot of ads suggesting that you should be a tourist within your own city, or you are a tourist within your own province. It seems to be singularly unfair to businesses who attract these kinds of local tourists not to take avail of the tourist exemption. I think a lot of work has to be done in drafting the tourist exemption.

Those are my formal remarks. My presentation under the tab text is a far more detailed reproduction of what I have done.

The Chair: We have only a little less than four minutes per caucus. Mr Poirier from the official opposition.

Mr Poirier: Having Place d'Orléans—with an accent—half in my riding, in the republic of Prescott and Russell, I am familiar with your operation.

Mr Casey: Why do you want this? You have your own rules.

Mr Poirier: That is right. We do have our own rules in Prescott and Russell. Could you confirm again? I followed with interest your provisions when you have tenants in your malls. What do you specify in your mall?

Mr Casey: The lease that the tenants signed provides for the landlord to set up the operating hours for the specific shopping centre. That is more or less required so that you have some kind of uniformity in opening hours so the customers understand it. When Sunday shopping was allowed, we basically said to our tenants, as it relates to that provision of their lease, "We will not put you into default of your lease if you do not open on Sundays." As you can see from the information, the majority of the tenants chose to open.

Mr Poirier: The reason I ask is that we had heard some pretty horrible stories about being dragged through the mud and tortured in the Spanish Inquisition because of Sunday shopping, what people claim mall owners do to leases of tenants, that if they do not observe they are out on their heads and that kind of thing.

Mr Casey: I am not aware of any situations where a tenant's lease was put in default or a tenant's lease terminated as a result of them not opening during that period of Sunday shopping.

Mr Poirier: In your operations or elsewhere also?

Mr Casey: Elsewhere also.

Mr Poirier: Because what we hear is pretty horrible. That is why I wanted to get your feedback on that.

Ms Gupta: The other thing is that the present legislation contains a provision saying any effort to make you open on Sundays is null and void. Perhaps if your concern is to protect the small franchisee or tenant you should keep the provision there so no one can force you to remain open on Sundays, but you can choose to remain open on Sundays.

1630

Mr Poirier: As a context, what if wide-open Sunday shopping became available? Would you put a clause in there forcing them to open on Sundays?

Mr Casey: That clause exists in the lease right now.

Mr Poirier: What does it say?

Mr Casey: It basically says the landlord determines the hours that the shopping centre will open and the tenants have to follow suit. As I mentioned earlier, what we did on Sunday shopping was allow the tenants to open at their own will. Obviously, the legislation as proposed overrides that.

Mr Poirier: Including your large tenants? You would make sure that they would not be tied down to the Sunday hours?

Mr Casey: That is right.

Mr Poirier: Thank you for that clarification.

The Chair: My apologies to you, Mr Carr, on an earlier occasion. I bypassed your party and I made mention of the fact that you were absent. That was not an intentional

reflection, certainly given the hard work and long hours you have put in on this committee.

Mr Carr: I have asked more darned questions than anybody.

The Chair: It was more a matter of surprise than anything else, so my apologies.

Mr Klopp: Mr Chair, I promise I will not bring it up in the House.

Interjection.

Mr Carr: Thanks very much. After the kids saw Mark outside, they are now calling them Uncle Mark and Uncle Peter. They want to know when Uncle Peter is going to take them to the Eaton Centre.

Mr Kormos: On Sunday. I will go over to 184 Main Street first and sign them up, and then we will go to the Eaton Centre.

Mr Carr: Thank you for a good presentation. I was very interested in the point you made about the prejudice, if you will, of municipal politicians, that they will not accurately reflect whatever the provincial government's intentions are. I think we have already heard that. We have heard municipal politicians saying, "We'll use it to get out of it." Notwithstanding the fact the Premier says we want a common pause day, the municipal politicians are saying: "You're giving it to us. Thank you very much, we'll apply it the way we'd like."

I was interested in your comments about a provincial board or commission or whatever set up to look at this whole matter. This had come up before from a couple of groups—I cannot remember which ones. They were saying, and I think you have mentioned something along the lines of the Ontario Municipal Board, a division of that, something like the labour board. Could you just expand on how you see it working and the makeup? Would it be a collection of business/labour? Appointment by the government? How would it be?

Ms Gupta: I think realistically it is going to be appointment by government, and usually what happens is you have a few lawyers—you cannot quite escape them—and you have people who are involved in the business sector, probably people who are experts in the tourism area. So I see the ministry of tourism as being a source of people. People in the bureaucracy there would probably be quite sensitive to what are actually tourism areas in Ontario and what they need in terms of exemptions to the legislation.

My concern is that if you have the old system, the 1989 version of the act really did not give them any criteria. They could exempt themselves or not exempt themselves depending on what they felt was politically correct for their area, and that is what municipal councils are good at doing. By adding and tightening up these criteria, you are essentially given them a role, saying: "Okay, these are the criteria. Does the application fit?" I see a potential inconsistency from municipality to municipality, which is not really fair for a business like Marathon where they have interests in more than one constituency, so essentially the same application would not be successful.

Mr Carr: There are two points with that and maybe you could just talk to them. Number one, I guess, would be the problem that any time a government appoints some-

body it becomes political, although I think with the Ontario Labour Relations Board that has not happened quite as much. Maybe you could just talk to that.

Second, what do you see in terms of the cost of something like that? Would it be a big board? Have you given any thought? As you know, in this day and age, with our deficit being what it is, we do not need any added costs. I was just wondering if you saw something that could even be part-time, not a full-time board, where they just met occasionally. Is that what you see?

Ms Gupta: I do not think it has to be a very large board although I think it is important to have consistency of membership whatever you do; that is number one. Number two: Yes, I think there is a cost associated with it, but essentially, this legislation fobs off the cost to the municipal councils and I do not feel that this is particularly fair. Someone is going to have to pay for it. If we do not pay for it in our income tax, we will pay for it in our municipal taxes.

Finally, as a lawyer I have a great deal of respect for the administrative tribunals of this province. I think the people there try to be fair, they try to be professional about it. I think there is a different quality. I am not trying to hide that, but I think that once they are appointed they make a concerted effort, especially if they are full-time and especially if there are some long-term appointments or there is some continuity there. I think that in general they can be extremely professional and they develop an expertise over time that is very valuable, so they can cut to the quick of the issue and be consistent. They do not have to reread and reconsider every application, because they know there are three issues and they can consider them very quickly. That is why I like that kind of proposal, although this is all subject to the fact that I do not like mandatory Sunday closing at all. I am saying if you are going to do this, do it rationally, not irrationally.

Mr Carr: Thank you for a well-thought-out presentation.

Mr Fletcher: Just as an aside, when I came to Toronto when I was 18, I wanted to see Yonge Street on a Friday and Saturday night. That was my tourist attraction.

There is a heck of a lot here. I see presentations coming in from the ma-and-pa stores that are not high-tech, not as glossy, not as professionally read—

Interjection: But easier to recycle.

Mr Fletcher: Yes, easier to recycle. There is a lot of money put into this; I can see that. That is one thing that I hear a lot from the downtown business cores in a lot of cities: "Those darn malls. They're taking away our business, our downtowns are dying and there's nothing we can do." I see what is happening in my own community, where they tried to revitalize the downtown core, and what has happened is that they have allowed the malls to open on the outskirts and the downtown is dead and dying. The streets roll up. You name it, they roll up at 12 noon after the buses.

Ms Gupta: So we should let the downtown core be open on Sundays completely.

Mr Fletcher: All I am saying is that the darn malls are apparently being seen as the downtown core's problem in a lot of areas, and that is where a lot of the opposition is

coming from: the small retailers who are downtown saying no to Sunday shopping. In my jurisdiction, during the election I would walk down the street, and in each store window you would see, Say No to Sunday Shopping, but outside the city, on the outskirts, the malls were saying, "We want Sunday shopping," and it was killing them.

Ms Gupta: I represent a lot of small businesses in terms of defending them against charges brought under the Retail Business Holidays Act, and that is essentially how I got to do this presentation, because I have been involved with it for the last two and a half years. I recognize there are sole proprietorships and small stores that do not want Sunday opening; I would be stupid not to, but I recognize that there are a lot of small and medium businesses that do want Sunday shopping and who hire me to say, "Get me off this charge," or "Can you pay off the crown prosecutor to get us off?" It is not true that all the stores on the street want to be closed on Sundays and all the malls want to remain open on Sundays. It is just simply not true. That dichotomy does not work.

Mr Lessard: In part of your presentation you mentioned that the number of hours the rest of the week were reduced, as far as mall openings are concerned, so that the mall could open on Sundays, and there were actually more hours cut back during the week than there were opening on Sunday.

Ms Gupta: That is true for Place d'Orléans, although I do not think that is true for Dufferin. I think it was more of an adjustment at Dufferin Mall.

Mr Lessard: Do you think that Sunday openings would create opportunities for increased employment?

Ms Gupta: We do not have any statistics to prove that, but on a casual observation at Dufferin Mall, which is where I shop on Sundays, the people who serviced me there were younger kids and people who were not clearly regulars, because they did not know the store as well. I think they got a chance to get their foot in the door when they would not have otherwise.

Mr Lessard: I guess that is one of my concerns. If you follow that submission, it would seem as though the full-time workers who did not want to work on Sunday were losing out to casual and part-time workers. Their hours were going to be cut back and they were going to be replaced by casual and part-time workers.

Ms Gupta: I do not think that works, because nobody—well, very few people—work all the hours that our malls are open. I mean, it is incredible. I think it is over 65 hours.

Mr Casey: It is between 55 and 65 hours a week that malls generally are open.

Ms Gupta: And Sunday shopping, at least at Dufferin, was only 12 to 5 or 11 to 5. So very few workers, I would think, would work at the mall every single hour the mall is open. That is just simply not true. Most of them work somewhere between 3½ hours to 40-plus hours, so there is room for adjustment there.

The Chair: Thank you very much for your interesting and lively presentation. Our committee is adjourned until August 26 at 9 am in Windsor at the Windsor Hilton.

The committee adjourned at 1641.

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Official Report of Debates (Hansard)

Monday 26 August 1991

Standing committee on administration of justice

Retail Business Establishments
Statute Law Amendment Act, 1991

Assemblée législative de l'Ontario

Première session, 35^e législature

Journal des débats (Hansard)

Le lundi 26 août 1991

Comité permanent de l'administration de la justice

Loi de 1991 modifiant des lois
en ce qui concerne
les établissements de commerce
de détail



Chair: Drummond White
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Monday 26 August 1991

The committee met at 0909 in the Hilton International Hotel, Windsor.

RETAIL BUSINESS ESTABLISHMENTS STATUTE LAW AMENDMENT ACT, 1991

LOI DE 1991 MODIFIANT DES LOIS EN CE QUI CONCERNE LES ÉTABLISSEMENTS DE COMMERCE DE DÉTAIL

Resuming consideration of Bill 115, An Act to amend the Retail Business Holidays Act and the Employment Standards Act in respect of the opening of retail business establishments and employment in them.

Reprise de l'étude du projet de loi 115, Loi modifiant la Loi sur les jours fériés dans le commerce de détail et la Loi sur les normes d'emploi en ce qui concerne l'ouverture des établissements de commerce de détail et l'emploi dans ces établissements.

WINDSOR AND DISTRICT CHAMBER OF COMMERCE

The Chair: We have two representatives from the Windsor and District Chamber of Commerce, Mr Mark Jacques and Mr Stephen Roberts. You have approximately half an hour to divide between your presentation and the many questions I am sure the committee members will have for you.

Mr Roberts: My name is Stephen Roberts. I am the president of the Windsor and District Chamber of Commerce. It is a pleasure to be here with you this morning. I have handed to the clerk 15 copies of our paper. It is broken down into a number of headings. The first is "Background." The freedom of choice is one of the greatest democratic principles which many people have fought long and hard to uphold. In this regard, an individual's right to shop on any day of the week and a business's right to be able to conduct business on any day of the week are rights that should be upheld in any free and democratic society. As a result of society's demands, the legislation affecting the opening of retail establishments on Sundays has been struck down by our courts or amended to allow broad exemptions by municipalities and other various sectors of the retail establishments.

In 1989, the Retail Business Holidays Act was substantially amended to give municipalities wide powers to regulate retail shopping on holidays. This legislation did not result in municipalities immediately utilizing their newfound authority to permit widespread or unrestricted retail openings. This legislation was challenged and the Supreme Court of Ontario, in June 1990, declared the amendments to be unconstitutional and of no force and effect. As a result, retail establishments were again allowed to be open on Sunday and thereafter in this community many stores began to conduct business on Sundays.

The decision of the Supreme Court of Ontario was appealed to the Ontario Court of Appeal and on March 20, 1991, the Court of Appeal reversed the prior decision and the amendments to the Retail Business Holidays Act were declared to be valid and of full force and effect. Notwithstanding that the prior amendments to the act had now survived constitutional and court challenges, on June 4, 1991, the Solicitor General, Mike Farnan, introduced his government's amendments to the Retail Business Holidays Act in the form of Bill 115.

The amendments established provincial criteria for tourist areas which must be met before a municipality could pass a bylaw allowing Sunday shopping. Under the previous legislation municipalities could opt out of the general prohibition on Sunday shopping by holding public hearings and legally passing a bylaw to that effect. Furthermore, under the proposed legislation an application for a tourist exemption must be made by a business or a group of businesses to their municipal council. The application must demonstrate that the geographic area in which the business is located meets the province's criteria for a legitimate tourist area. These criteria are listed in the regulations of the act and are broad enough and vague enough to result in much confusion and lengthy court battles to determine their effect.

The proposed legislation also provides additional criteria. If the retail business which desires a tourist exemption is larger than 7,500 square feet or has more than eight regular employees, it must meet additional criteria set out by the province. The retail business must provide services on holidays primarily for tourists and meet at least one of four criteria outlined in the regulations. Again, these criteria are both broad and vague enough to allow serious difficulties in interpreting them and will also result in lengthy and costly court proceedings to determine their effect. The proposed legislation also provides that all applications for a tourist exemption must be supported by the local chamber of commerce or the local convention and visitors bureau. Furthermore, it is up to the municipal councils to decide if the applications meet the provincial criteria for tourist exemptions.

In their deliberations, councils must hold public hearings and even if the application is deemed to meet all the provincial criteria, a council is under no obligation to pass a bylaw granting the exemption. While the amendments propose that all council decisions will be final, they can be appealed to the courts. The proposed legislation further provides that all exemption bylaws under the previous legislation which are not yet in force will be repealed and all exemption bylaws currently in force will be repealed in one year or sooner.

The proposed bill also sets forth amendments to the Employment Standards Act which will greatly strengthen

employees' already existing rights to refuse assignments of Sunday work. The current legislation provides that retail workers have a general right to refuse an assignment of Sunday work that they consider unreasonable. In addition, the current legislation provides that when there is a dispute between the worker and the employer about the reasonableness of an assignment of Sunday work, including situations where the worker has been disciplined or dismissed because of the dispute, the worker has the right to apply to the Ministry of Labour to arrange a settlement and to require the issue to be resolved by a referee.

The existing provisions of the Employment Standards Act also provide that retail workers have a specific right to refuse work on Sundays and public holidays that is illegal under the Retail Business Holidays Act. The proposed amendments to the Employment Standards Act will give retail workers the absolute right to refuse Sunday work and other holiday work in any retail business establishment defined under the act.

Furthermore, the proposed amendments will give a worker who has agreed to work on Sunday, and thereafter wishes not to do so, the absolute right to refuse to work on a Sunday upon giving 48 hours' notice to his employer. The proposed amendments also assure retail workers of a weekly day of rest by entitling them to 36 continuous hours of rest in every seven days, whether they work on Sundays or not.

Our concerns:

1. Although the proposed amendments to the Retail Business Holidays Act in and of themselves will not have a direct bearing on the provincial economy, the overall intent of the legislation, by reducing the ability of businesses to do business on Sundays and increasing the employees' right to refuse work and guaranteeing a common pause day, is seen as being against businesses' interests. Accordingly, this legislation, along with other legislation being proposed by the government, has the effect of reducing the competitiveness of businesses in Ontario and discouraging potential investment in Ontario.

2. The issues of Sunday shopping and cross-border shopping by Ontario consumers are often linked. However, it is readily admitted and not in dispute that allowing Sunday shopping will not totally resolve the cross-border shopping issue. Notwithstanding this admission, when you have a fire you do not throw gasoline on it, and since the issue of cross-border shopping has been directly related to the declining competitiveness of businesses in Ontario, any legislation that moves to further restrict or prohibit Sunday shopping is consequently related to the cross-border shopping debate.

3. An individual's freedom of choice along with a business's freedom to choose the days to conduct business which it feels will increase its competitiveness are rights that should not be fettered or restricted. Most businesses are more than capable of making these business decisions and to determine those days on which, for their particular businesses, it is most profitable to remain open. Accordingly, these business decisions should not be restricted by any legislative requirements. Furthermore, an individual

should be given the freedom to shop or do any other lawful act on any of the week which he or she chooses.

4. The proposed criteria for the tourist exemptions are widely considered to be unworkable, confusing, unenforceable and open to abuse. These criteria will be by regulation and therefore could be changed quickly and without public consultation. Furthermore, the province will be required to face lengthy and costly court battles to enforce the validity and proper interpretation of the proposed amendments. As a result, the proposed legislation will not ensure the goals originally established by this government—to provide uniformity or a province-wide common pause day—as this legislation is seriously flawed and will be immediately challenged.

5. The tourist exemption criteria are also inherently unfair. A retailer who provides the same goods or services but who is too large or just outside a designated tourist zone or whose building lacks architectural uniqueness could be forced to close while the competition is open for business.

6. The proposed amendments place an unmanageable burden upon municipalities. In addition to their already existing role, the proposed legislation imposes on municipalities the additional burden of administering the unworkable and confusing provincial tourist exemption criteria. Accordingly, municipalities have had forced on them, unwillingly, the responsibility to evaluate in terms of the provincial criteria the application of any business seeking a tourist exemption. Municipalities must also incur the costs of holding hearings on the said applications being made. In addition, the municipalities will be potentially liable for prohibitive court costs arising from the inevitable appeals of their decisions. The cost to municipalities of these additional burdens in terms of time and money will be enormous.

7. The proposed amendments place undue onus on the retailer to submit an application to the municipal council for an exemption from the prohibition on Sunday openings. In the application, the retailer must demonstrate that the geographic area in which the business is located fulfils the requirements to be designated as an official tourist area. As a result of its size and number of employees, it may also have to demonstrate that many other additional criteria are met to be allowed the tourist exemption. Accordingly, by restricting the conditions under which a municipality can grant an exemption bylaw, the proposed amendments are further punishing Ontario retailers at a time when their need for a competitive business environment has never been greater.

8. The proposed amendments require that all applications must be supported by the local chamber of commerce or the convention and visitors bureau. This requirement was put in place without any consultation with the said organizations. We, at the Windsor and District Chamber of Commerce, are not prepared to act as arbitrators of who should open on Sunday nor to become unwillingly involved in the application process.

0920

9. Although in March 1991 the Solicitor General led border communities to believe they would receive special exemptions, the proposed legislation does nothing

for border communities which have been seriously impacted by the effects of cross-border shopping. In particular, in Windsor, our city council was prepared to pass a bylaw in May 1991 under the then existing legislation which would have exempted the city from the prohibition to open on Sunday. However, as a result of a last-minute appeal from the Solicitor General, the third reading of the bylaw was delayed until the middle of June. Notwithstanding our council's good faith in delaying its decision to await the announcement of the proposed legislation, the Solicitor General enacted legislation which contained provisions which would repeal any bylaws that were passed subsequent to June 4, 1991, whereas any existing bylaws passed at that time would have been allowed to continue for a one-year period. We feel the Solicitor General's actions in this matter were in bad faith and unfair to the retail business establishments in Windsor who relied on his prior assurances.

10. The proposed legislation would give retail workers the absolute right to refuse work on Sundays and, in addition, to refuse work previously agreed to upon giving 48 hours' notice to the employer. The existing legislation already provided sufficient protection for employees with regard to requirements to work on Sundays. In addition, the retail workforce only encompasses approximately 4% of the entire workforce in Ontario, and pursuant to the proposed amendments a substantial portion of this small sector would be required to work in any event as a result of the businesses being within the tourist exemption criteria. Accordingly, the proposed amendments affect a very small minority of workers in Ontario but send out a very loud and clear message to anyone interested in investing in Ontario that the legislation does not favour businesses.

Recommendation: that the government immediately reconsider its decision to pass the proposed amendments as they will result in the undue restriction of freedom of choice in this province to shop and conduct business on Sundays, which will further decrease the competitiveness of Ontario.

In conclusion, we at the Windsor and District Chamber of Commerce feel strongly that the government's decision to pursue the proposed amendments to the Retail Business Holidays Act is wrong. The government claims it consulted widely before introducing these Sunday shopping amendments but it does not appear to have listened to the responses received. The Association of Municipalities of Ontario submitted a brief to the government outlining the reasons why tourist exemptions do not work and the prohibitive cost that would be incurred in trying to conform to the provincial criteria. Furthermore, Ontario's border communities have made numerous submissions and have been very vocal with regard to the need to obtain relief and were very discouraged by the government's failure to honour its promise for special exemptions.

The proposed amendments will do nothing to assist the retail sector in its need to compete effectively in our new and expanding global economy. We, along with the Ontario Chamber of Commerce and all other chambers across Ontario, are greatly concerned with the responsibility which has been unwillingly legislated upon us to approve

applications for exemptions. We were never consulted in this regard and will resist strongly the role the government has imposed upon us.

Although we realize the purpose of these committees is for us to submit to you our views and opinions, which in this case are definitely criticisms of the proposed legislation, we want to emphasize that we stand willing and ready to consult and work with the government to discuss other proposed solutions to the issues at hand. We want to emphasize that we are anxious to be involved with the government and to be involved in the consultative process. We feel if we work together we can increase the competitiveness of businesses in Ontario, which will result in more jobs for those most unfortunate citizens of Ontario who are now unemployed.

We thank you for allowing us the opportunity to express our views today and are certainly ready to respond to any questions you may have.

Mr Sorbara: I want to tell the witnesses the brief is an excellent brief and I think probably the first time that we have had such a concise statement of the background. I have a couple of questions. The first has to do with the particular circumstances here in Windsor. I am looking at paragraph 9 on page 4 of your submission where you argue that you had been given some assurances by the Solicitor General that the realities of Windsor and, parenthetically, other border communities would be taken into consideration in drafting new Sunday shopping legislation. Is that right?

Mr Roberts: I am dealing with general comments that were made by the Solicitor General in March of 1991, I believe, in response to submissions made by the task force of border community mayors. There were general statements made by him that there would be some provisions made to assist border communities.

Mr Sorbara: Cross-border shopping has been an issue in the province for certainly a good year, exacerbated by the imposition of the GST and other matters that have created a significant competitive disadvantage for retailers in Windsor. We have heard about those during our budget hearings. There have been hearings at Queen's Park on the issue of competitiveness across the Canadian-US and the Ontario-US border. If businesses in Ontario and in Windsor are required to stay closed on Sunday, that represents 52 days a year, plus the other holidays, let's say 55 days a year when you are not able to compete. That is like trying to run a business 10 months a year when your competitors are running businesses 12 months a year.

There have been arguments made by some, particularly government members, that Sunday shopping has nothing to do with the issue of cross-border shopping and competitiveness across the border. What is your view of that? Is it an issue and how do you rate that issue among the variety of competitive disadvantages that you have in Windsor and district at this time?

Mr Roberts: As I stated in our brief, and I think it is certainly recognized, having Sunday shopping is not a panacea, will not solve the cross-border shopping question. But it is certainly one of many factors that reduce the

competitiveness of businesses not only in Windsor but across Ontario. We are not just dealing with a problem that is only affecting border communities. It is exacerbated in border communities because in the length of time that I have submitted this brief you could have driven across the border, filled your car up with gas, been over at Pace and started doing your grocery shopping and probably just about be on your way back.

In any border community, those stores over there are your competition. At one time your competition may have been Sears next door or the Bay down the street at the mall, but in today's global economy, and especially with free trade coming in, the competition today, especially in Windsor, is on your doorstep. You have made a very good point. It is like being able to compete in only 10 of the 12 months if those other stores are able to compete against you on days when, for no other reason but because there is legislation in effect, you do not have the ability to open your front door and allow the consumers to walk through.

The Chair: You have one minute.

Mr Sorbara: If there is just one further question, I will pass it over to Mr Daigeler.

Mr Daigeler: During these hearings that we have been holding over the last three weeks, many chambers of commerce have in fact taken the same stand you are proposing to us today. However, those chambers also reported there either has been a change in the opinion of their members or there is still a split among the members of their organization. How is it in Windsor? The position you are putting forward here, is that pretty well unanimous among your members or is there a split, and if so, what would be the split?

Mr Roberts: I would have to say this is an issue, and like any other issue you are not going to get unanimous support among your members. It is an issue which I believe even among retailers in this community, as in any other communities, there is some dispute about. At the chamber we simply represent the majority and we try to take those positions which represent the majority of our members. We have not done recent surveys, but surveys that we have done in the past and then have reinstituted more recently have resulted in large increases in support for Sunday openings. I was chairman of a municipal-provincial affairs committee and approximately four or five years ago when we did surveys on this issue we were about evenly split, 50-50. We have seen a drastic increase in the support for Sunday openings as a result of the cross-border shopping debate and as a result of the cross-border shopping impact on this community. It really has increased the support for Sunday openings.

0930

Mr Carr: Thank you very much for your presentation. Particularly I think, in your presentation on page 3, your point 4 sums up very clearly what we have been hearing from a lot of people about the legislation. As you know, a lot of municipalities have said they will open up under the tourist exemption. Notwithstanding the fact the Premier and the Solicitor General have said they have legislated a common pause day, very clearly we will have

Sunday shopping in this province, and the only question is how many municipalities will open; is it going to be 60%, 40%, 30%? From what we have been hearing my best guess is that probably 60% of the province will take these broad tourism exemptions and open up. As some people have said, that will have a domino effect and a few years from now we will have wide-open Sunday shopping.

I think your criticism, though, appears to be of the way it is done because, as you know, a lot of people have said that the government made an election campaign promise they did not want to break. They put in these tourism exemptions that were so broad they will now blame it on the municipalities when they open up, and they can get out of the campaign promise by saying, "Sorry, it was big bad Windsor that decided to open up; we just put the criteria in there."

But there has also been some criticism that the tourist exemption will lead to a lot of litigation, that regardless of what side you are on there will be a fight because they will say you interpreted it the wrong way. Is that the crux of the complaint you really have with the tourism exemption?

Mr Roberts: It is certainly one of the greatest flaws in the legislation in terms of the costs that are going to be incurred by municipalities, and really everyone in the province, in trying to enforce and interpret these provisions.

The other problem that is compounded is that the legislation has brought other players in. It requires the retailer to make the application. So we are now putting the onus back on the retailer to have to do surveys and conduct studies and prepare briefs to prove they meet these criteria. We are having a difficult enough time in business these days. To meet the bottom line, with an additional burden to competition, to be able to remain open, you are going to have an extra hurdle to jump over.

As well, they brought the chambers into it. Now we have to also become an arbitrator and look at applications and decide whether or not a particular area meets the criteria. I do not want to agree that the prior legislation was perfect in passing the buck on to municipalities, but this legislation not only passes the buck to municipalities, it passes it on to the retailer and to chambers and to tourist and convention bureaus. Again, we should consolidate it back to the body that has the expertise and the liability for it, and that is the province.

Mr Carr: The number one concern of business, as you know when you look at some of the surveys, is the tremendous tax burden in this province. But the second biggest concern after that is the amount of regulation and paperwork and so on that businesses are facing. What you seem to be saying is that all this fight is going to go to the municipal level and businesses are now going to have to do, as you said, the surveys and prepare the briefs and line up and do presentations like this. Is that your concern as well?

Mr Roberts: Exactly. That is a great concern and it is an unnecessary hurdle that a company should have to jump over just to be able to carry out business.

Mr Carr: The third situation all the chambers have been very concerned about is, as you know, the fact that they were brought in without consultation. As Mr Mills has said, part of these hearings is to show they are listening. I

think you have said it, as have all the chambers of commerce, but I just wanted to put it on record that I think that anybody who does not want to be involved, any really essentially volunteer organization that does not make money, that is out there to try to help its members, should not be dragged into the fight. I guess that is what you are saying in point 8.

Mr Roberts: Yes, it is going to put us in a difficult situation, just as it is putting municipalities in a difficult situation. They will certainly, as a result of decisions they are going to make, anger some sector of their community unnecessarily.

Mr Lessard: For the benefit of people who were not here on Monday, and especially for my friend, Mr Sorbara, I just wanted to say that I enjoyed your presentation, as well. I can tell that you benefited a great deal from a good University of Windsor law school education.

Interjection: At least he went to school.

Mr Kormos: It is going over your head, Greg. We will tell you later.

Mr Lessard: I just wanted to say that I did question the Solicitor General last week when we were in Toronto about the provision respecting the chamber of commerce's involvement in this process. He has agreed to take a second look at that provision.

In a great deal of your presentation you speak about the issue of freedom of choice. In fact, in the city of Windsor in the downtown area merchants have had the freedom to open up on Sundays if they wanted to. There are probably about half of them that do not open on Sundays in the downtown area at this point. If you follow your submission, it would seem that if there were unregulated openings on Sunday the malls would open up and then those businesses that were in the downtown area that chose to close on Sundays, they would be really forced to open, do you not think? I mean, they would lose their freedom of choice. If they did not open they probably would not survive.

Mr Jacques: If I might respond to that one, I guess in previous legislation—and we are going to maintain the same position we have in our previous submissions to a number of different groups—those businesses that had the opportunity to open in the downtown sector were doing so probably without the chambers of commerce looking at that as a specific regulation that should be changed, because they also had the same designated tourist area, which every time it got to council would be disputed highly. I could not understand how you could draw a boundary down the middle of a street and businesses on one side of the street could be open and businesses on the other could not. That was effectively what you had here in the community. It was only brought to a head by proposed changes to this legislation and any amendments that were forthcoming that said, "This is unfair." We believe everyone should have the freedom of choice. By that nature, there will be a competitiveness factor that will perhaps create a need for businesses to open that might not want to open. There might be that choice. However, the marketplace will dictate that, and what any business would like to have is the opportunity to make that choice, I would suggest.

Others, certainly as Mr Sorbara has said, would probably not like to have, or might like to have legislation which would prohibit them from opening so that they would not have to make the choice, they would not have to force their employees. Their business probably would not benefit in their opinion by being open, but you should not restrict other businesses from opening just because some businesses feel they should be restricted or whatever, because that is an easy solution for them.

I think the marketplace in many respects dictates those openings. This is the only sector really which has legislation that prohibits this kind of occurrence. Every other business sector—I mean, the doctors and dentists and lawyers and this and that can work whatever time they choose. This is the only sector in our marketplace which dictates and it is only representative of 4% of the employed population. I would suggest that it would effectively cause some people, because of the competitive nature of it, to be open—not by regulation, because we are not asking you to regulate people to be open; we are only asking you to regulate people to have the choice.

0940

Mr Morrow: Thank you for such a fine brief. A few of my colleagues and I went for a walk in your downtown core last night. You have a very fine city.

Regarding your closing paragraph, I think it is very important to say that is exactly what we are doing here. We are listening to you and you are actually helping us to either amend or go with the existing legislation. That is what public hearings are all about, so we can get your input into it.

Mr Sorbara: The question is open, is that what you are saying? It is an open question?

The Chair: Let him ask his question.

Mr Morrow: Can I please ask my question, Mr Sorbara?

Mr Sorbara: I am delighted to hear your question.

Mr Morrow: We know that in Ontario there are over 100,000 workers who are basically unprotected in the retail field. What do you feel about the absolute right to refuse work on Sundays?

Mr Roberts: I believe that the amendments that were made to the prior existing Employment Standards Act are sufficient to protect those workers. Again, what we are dealing with is 4%—and I do not say that just because it only deals with 4% of the workforce, that those people do not have rights and that they should not be protected—but the rights that they have, even the existing rights that they have, are greater than the other 96%.

If you have walked through our city you probably noticed there were a lot of people who maybe were not walking around Saturdays and Sundays because they are employed at the Chrysler van plant, which has been running for seven days a week probably for the last 10 years. There are many people in this community who work seven days a week and do not have any rights. If we are talking about protecting rights—and I am not suggesting that is what you should be doing, but the intent of this legislation

was to create a common pause day. That is not going to be brought into effect except for a very small minority of the workforce.

At the same time, the legislation is sending out a very, very loud message, as I stated, to anyone looking to invest in this community and to expand and to be able to create new and better jobs hopefully for those who are unemployed. This is not the place to do it. That is the problem we have with it.

I have to agree, this is the forum for me and the chamber to be able to express these views and we appreciate having the opportunity. I do hope you are sincere in your remarks that you are going to listen and that this is an open question, and that hopefully some of the comments we make and the views expressed by others across the province will have an influence on the legislation that eventually gets passed.

The Chair: Thank you very much, gentlemen. A very interesting presentation.

I have an announcement about a change in our agenda. I believe the presenters from the Windsor and District Labour Council are here and from the CAW, Local 444.

They are moving to the 10 o'clock spot, which of course has just been moved up. The United Food and Commercial Workers International Union is moving to the 11 o'clock spot. The CAW and the labour council are combining, so the 1:30 slot is now empty. Tentatively, we have an additional witness for this afternoon, a Mr Clifford Sutts.

WINDSOR AND DISTRICT LABOUR COUNCIL
CANADIAN AUTO WORKERS, LOCAL 444

The Chair: Gentlemen, if you could join us, please. We are very pleased that you are here early, so that we can keep things rolling. Mr Parent and Mr—

Mr Lewenza: Lewenza—A good old Ukrainian name.

Mr Sorbara: It certainly is a good Ukrainian name.

Mr Lewenza: First of all I would like to take this opportunity to thank the United Food and Commercial Workers for allowing us to exchange spots with them because of our timing restraints. We have a meeting this afternoon in Port Elgin.

My name is Ken Lewenza and I am the vice-president of Local 444, CAW, representing Chrysler workers. With me is Gary Parent, the president of the Windsor and District Labour Council, along with the financial secretary of Local 444.

I had the misfortune of listening to the chamber of commerce. I just want to make a clarification, if I can. The Windsor Chrysler mini-van plant, the one we represent, does not work seven days a week. In fact, they work six days a week, on a schedule of eight and 48. Those are the hours they work under the current legislation. Obviously anybody who works five days a week in manufacturing, normally works six days a week. If you work six days a week, you normally work seven days a week to do some PM schedules and stuff to keep the plant running. I just wanted that clarification.

Mr Parent: If I can just add to what Brother Lewenza said, if the chamber in Windsor wants to lead the fight for

the shorter workweek, I am sure the labour movement in this city and other cities across this province would join with it to get that fight going. I just want to make that a matter of record.

Mr Sorbara: Now I am confused. Is this van plant open? Do people work there on Sundays or not?

The Chair: You can ask that later as a question.

Mr Sorbara: Okay, sure, or they can just say yes or no.

Mr Lewenza: We would like to thank the committee for the opportunity to make a submission to you on an issue that we feel is very important, not only to the labour movement of Windsor and area, but to the different communities as a whole. In our surrounding communities, the issue of a common pause day has been debated time after time over the last couple of years, and we feel that the previous provincial government tossed the ball back into the lap of the municipal governments when, actually, the responsibility of setting such legislation should be that of the provincial government.

During our many public debates on this issue, the anti-Sunday-opening advocates far outweighed the pro-Sunday-opening advocates, and yet what did we see but our municipal council's total disregard for what the majority of those who spoke out had to say. In our opinion, they went with the minority of businesses that preferred wide-open Sunday shopping.

Tourist-designated areas: We feel very strongly that we cannot allow municipal governments to solely have the right to designate areas because of what our city council has done under the old legislation in designating our whole city as a tourist area. We feel that our city council's decision was swayed a great deal by the cross-border shopping phenomenon which we, as a border community, are definitely suffering from. However, the reality is that wide-open Sunday shopping in Windsor will not stop people from going across the border. Only cheaper Canadian prices can do that.

We feel that the areas that were permitted to remain open under the old legislation, like the downtown area, should be the only areas to open and, even then, only if their establishment is less than 4,000 square feet, and the number of persons engaged at any one time does not exceed four.

Workers affected: The working men and women in retail-related businesses are the people most adversely affected and, yes, we are happy with the proposed legislation set, out by this government to protect them. Our concern, of course, is the policing of such legislation. We do not have to tell this committee that employers have subtle ways of intimidating workers, which, I might add, was expressed during previous debates on this issue, not only by the workers themselves but also by management people who spoke at the public hearings.

The moral issue: We say to this committee there has to be a line drawn as to profits. Profits will have to take a backwards step and let the people of this province enjoy at least one common pause day a week, as we have had in this province for so many years.

Public hearings: We know our city council will be asking this committee to grandfather their present bylaw which was passed this June. We ask this committee not to grant them this special request because, as we expressed during that debate, they should have waited until the province brought down the new legislation. However, they would not listen and passed it anyway. We also ask the committee, if in its wisdom it decides more public input is needed by having more public hearings, not to grant our city council or any other municipal council an exemption from this process. We feel quite frankly that after this current consultation process finishes, the legislation be put forward and finalized so the people of this province know what is and what is not open, once and for all.

In conclusion, we implore this committee to look at this legislation from the eyes of those workers who would have to work, and not from the eyes of those who are looking at this matter from a point of view of convenience. Profits, in our opinion, have to take a back seat, and the human element of having at least one common pause day a week has to be upheld for all people in this province. Thank you.

0950

The Chair: Thank you very much, Mr Lewenza. We have approximately eight minutes per caucus, starting with Mr Sorbara.

Mr Sorbara: Let me say at the outset that if you are of Ukrainian origin I guess this is a pretty important time for you, and the hearts of a lot of people around the world are with you and your fellow people of Ukrainian origin.

I want an answer to the question I raised during the intervention that you made before you started with your brief. Do people at the Chrysler van plant, or people in Local 444, work on Sunday? Are they eligible to be called upon to work on Sunday?

Mr Lewenza: As I have indicated before, in the production process such as the mini-van plant, normally when a plant is scheduled to work six days—which they are today because obviously we are one of the plants which have really not been affected by the recession, we are still doing fairly well—normally what would happen is the production people would work six days a week and the seventh day the company would canvass for a voluntary crew to work in the skilled trade sector, obviously to maintain the machinery. I just want to add, though, I think there is a slight difference in terms of comparing the two. In the manufacturing sector, in a mini-van plant, for example, to work 25 or 30 people on a Sunday they would canvass 500 to 600 skilled tradespeople. So it is a significant difference in terms of apples and oranges, if I may add.

Mr Sorbara: Many retail businesses that open on Sunday testified before this committee that to maintain a workforce of some 10 or 15 in a store they canvass between 200 and 300 people who put themselves on a list of people anxious to work on that day, which is to say that the difference is not all that dramatic.

I have walked around Windsor a little bit, not this time but in the recent past, and I see a lot of stores that are closed up. I guess you travel around the province quite a

bit and you see “For Rent” signs and bankruptcy sales. I noticed that on page 4 of your brief you say: “We say to this committee that there has to be a line drawn as to profits. Profits will have to take a backwards step and let the people of this province enjoy at least one common pause day a week as we have had in this province for so many years.”

First of all, are you basing your submission on the fact that the retail sector in Ontario has been profitable as of late?

Mr Parent: I think what we are saying very clearly to this committee and to others as we have said time in and time out, is that the majority of the retail industry in this province does not really want to be open.

Mr Sorbara: No one is suggesting they have to stay open.

Mr Parent: You say that, but we all know the retail industry is competitively driven, and competition is very swift and very severe, particularly in light of the recession this province is experiencing at this particular time. Any time someone next door opens up you want to have at least some access to those same people who are walking down, maybe to go to that particular store, so you are going to stay open.

At the hearings that went across this province under the last provincial government, those same retail businesses in this community, probably some of them have now had to close, possibly because of this legislation of letting stores open. No one is taking into consideration the added cost it takes for a store to open on that Sunday.

We heard submission after submission by a store that is a multinational, Sears. The experience their particular chain had out west was actually detrimental. At first their profits, they saw, actually increased; but long-term, after the novelty had worn off, what they experienced in hydro costs, in added employee costs, far outweighed the benefits they were receiving at the time.

We are saying very simply, as a province, we have to set out legislation on a common pause day to protect not only the workers but also the retailers themselves.

Mr Sorbara: Okay. we just heard from representatives of the retailers through the Windsor and District Chamber of Commerce and probably we should allow their own organization to speak on their behalf. Without any disrespect, and I have a great deal of respect for the Windsor and District Labour Council, I would prefer the chamber speak on behalf of the business owners.

I was concerned about that issue of profit. If you are basing your submissions on the notion that unconscionable profits are being made in the retail sector, I want to tell you that the story is not quite like that. Most retailers are finding it extremely difficult to pay the rent at the end of the month and many of them do not have to pay the rent any more.

Mr Parent: We submit that if you add one more day to that workweek, that is going to add another burden on to those same retailers.

Mr Sorbara: What is a common pause day in the view of the district labour council?

Mr Parent: A common pause day to us is what we have experienced in this province for many years: that Sunday be a common pause day, that workers not be subjected to having to work on that particular day.

Mr Sorbara: I know, but do you think this bill brings about a common pause day? It affects a very small sector of the workforce. Do you bring about a common pause day by providing a right to refuse work to a very small percentage of your workforce and by creating a tourist exemption that allows maybe all of the businesses to stay open in any event? What, in your view, is a common pause day and how do you get there?

Mr Parent: I think I answered that question. With all due respect, I think this community, as well as other communities across this province, in certain designated tourist areas that were there previously, survived quite well the needs of this province. I believe if we get back to that, but with stricter enforcement and protection of those workers who do not want to work, we are back to square one where we have a common pause day in this province, and the people can get on with their lives once and for all instead of having this debate continue year after year after year, which makes no sense to us. All you are doing is confusing not only the consumer but also the working people in this province. We have to put an end to this once and for all.

Mr Sorbara: Speaking of workers in the province, do workers in Local 444 periodically cross the border and do some of their shopping on Sundays in Detroit?

Mr Parent: I would be less than honest if I were to say they do not. They go there for the cheapness of the price and not because it is open on a Sunday.

Mr Sorbara: Do they go there on Sunday because it is convenient to go there on Sunday?

Mr Parent: No.

Mr Lewenza: I think that is where a lot of confusion falls into play here about tying in Sunday shopping to legislation, and some of the whining that is going on in this particular community. I wish everybody here were at our city council debate at the Cleary Auditorium and Convention Centre where presentation after presentation was given, from Marks and Spencers, Freed's, Sears, stores that know the competition out there; they know the cross-border shopping has affected them but they also know in reality that Sunday shopping is not going to make or break their business. It is two things: obviously it is much cheaper in the United States and in some cases it is very convenient. You see polls all over the place. If you took a poll of workers today and said to them, "Do you want to work on Sunday?" I am sure you would have a poll that overwhelmingly says no.

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Mr Sorbara: About 95%.

Mr Carr: On page 1 you said the previous provincial government tossed the ball back in the laps of the municipalities when actually the responsibility of setting legislation should be the provincial government's. I hate to tell you this, but this legislation has done the same thing, and those fights you talked about at the auditorium are going to

happen again right across this province because municipalities can—and have said very clearly to this committee they will—be taking some of the tourist exemptions.

You have been a little kinder than some of the other district labour councils. In fact, the chap in Peterborough called the tourism exemptions a joke and was very blunt in his criticism of the government. As a result of the tourist exemptions, there will be Sunday shopping in this province, there is no doubt about that. Do you believe the Premier of this province has broken his campaign commitment to have a common pause day if this bill is enacted?

Mr Parent: I do not think the Premier of this province has broken his promise to the people of Ontario. I think what is happening through this process is, we are having a consultation, even though I may personally dislike this process, once again to go through the same debates we have had for the previous governments plus the numerous debates we have had within our own city.

I believe one mistake the Premier and this government have to take into consideration is the designation of tourist areas. I do not believe our city council or any other city council should have the ultimate right of choosing what is a designated tourist area and what is not. There have to be some guidelines set up, and I do not particularly like the guidelines that are initially in this particular bill that have to be tightened up, and that is why we are here.

We are asking you as a committee to advise the legislative committee to put the proper legislation in there that is going to put the designated tourist area in a proper focus and not leave it so wide open that Mack trucks can drive right through it.

Mr Carr: I guess the ultimate decision will be made by the people of this province. The Premier said there would be a common pause day. Two years from now if they know they can go out on Sunday and they can shop in their community, and some will and some will not, then obviously that commitment will have been broken and it will not be us who will be deciding that. You will be able to go out, and if I can shop on Sunday that commitment will be broken. The question is, just what percentage of the population of this province is going to be able to do that?

With regard to the tourist exemption, there are many who said that what the Premier and the Solicitor General did was make it broad enough so they can then pass the responsibility off to Windsor. So that is why I made my comment about you saying the provincial government tossed the ball back to the municipalities. That is what this legislation does.

I am wondering why you are not as critical of that responsibility as some of the other district labour councils were, because in spite of the good co-operation between some of the unions and the NDP government they were still saying: "Hey, this is wrong. It's a bad bill. We want it changed. Get rid of these tourist exemptions." Is that what you are saying in effect as well?

Mr Parent: We are saying that this legislative committee is going to put proper legislation, we hope, back into focus as regards the proper designated tourist area. It is not law right now, obviously, and this is what this consultation

process is all about; there will be proper legislation put into effect, we hope. That is why we are here today, to try to give you some guidance as to what we feel as a labour community. We do not agree with the designated tourist area in its present form. We are saying to you as clearly as possible that we want some changes and some tightening up on that part of the legislation. That is what we are saying in our submission to you here this morning.

Mr McLean: On page 3 you say only cheaper Canadian prices can do this. Farmers are getting \$60 to \$75 a ton for their grain now. It costs \$150 to get rid of garbage. Farmers work seven days a week. What are you going to do for the farmers for a common pause day, and do you want them to get \$50 a ton for their grain for cheaper prices?

Mr Parent: With all due respect, Mr McLean, I wish we were talking about the farmers because I believe there are a lot of suggestions that we could make, not only at the provincial level but I am sure on the federal level as well, to help those farmers.

We in this community happen to be caught in probably the worst drought that we have seen in several years, so when you talk about the farmers in Essex county in particular, we have a lot of farmers right now who need a lot of provincial help. It is not going to be satisfied by opening up Sunday stores to help those farmers at this particular time. What we need, quite frankly, is a lot of financial aid, from the provincial government as well as the federal government, because of the drought that we just experienced in this particular year. There are some problems peculiar to the farmers in our county and we only hope that if there is a consultation process put in place, we will be there defending and protecting the farmers and trying to get the financial help they need to assist them in this devastation they have just experienced.

Mr McLean: Then what do you mean by cheaper Canadian prices?

Mr Parent: We are talking mainly of the retail industry. We are talking about eliminating the GST that your particular government, federally, happened to put into this country, which is devastating this country of ours as we now know it.

Mr Carr: Provincial taxes on gasoline, booze and cigarettes while we are at it.

Mr Parent: We covered those particular items last Monday, I believe, Mr Carr and Mr McLean, because you were both here at that particular hearing as well. I am glad to see you are getting your income supplemented by attending these hearings as well. Maybe there is a shortage of certain backbenchers attending these particular hearings, I have no idea. All I am saying to you is that we have a problem that goes far beyond the provincial mandate. We have a problem that starts at the federal level that is devastating this country and in particular devastating this community. I will debate at any time with anybody on what is the cause of the devastation that this community and other communities across this country are suffering. It is at the federal level; that is at the root of the whole trouble.

Mr Carr: Getting back to my last question, because I let Al jump in for that one, you talked about

the recommendations that you want to see. If this particular bill does not change, do you think we will have a common pause day in Ontario?

Mr Parent: Quite frankly, no. I think the tourist-designated area has to be straightened up to give a true common pause day for the people in Ontario.

Mr Lessard: Gary and Ken, it is good to see you here this morning, as always. I know you guys are working overtime yourselves just to make presentations before all these committees that are coming through town.

Mr Parent: No pay, though.

Mr Lessard: We appreciate that fact. What is the standard workweek at the van plant? What is the normal workweek?

Mr Lewenza: Which one are you talking about?

Mr Lessard: The straight-time workweek, I guess.

Mr Lewenza: It is eight hours a day, 40 hours a week.

Mr Lessard: Forty hours and then on. So if the plant is open on Saturdays, there is a premium?

Mr Lewenza: Anything over 40 hours is automatically time and a half.

Mr Lessard: What about Sundays? You say they have to go through a lot of workers to get volunteers to work on Sundays. What is the pay rate then?

Mr Lewenza: Sunday is automatically double time, negotiated.

Mr Lessard: Do you feel there is any intimidation that is exercised in order to get people to work on Sundays or to volunteer to work on Sundays?

Mr Lewenza: In our work environment, speaking strictly of the manufacturing sector or the mini-van plant, absolutely not.

Mr Lessard: What do you attribute that to? Do you attribute that to the collective bargaining process or the union representation?

Mr Lewenza: I think there is no question that the union influence has a great bearing in terms of the intimidation factor. Obviously, if there were no union there, then workers, I think, would feel intimidated about refusing, thinking that come Monday morning they may not be protected or may not have some layoff provisions. I think we all know what some of the non-union personnel go through.

Mr Lessard: In part of your presentation you talked about your concerns about enforcement. Do you have some concerns about those issues in the retail sector?

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Mr Parent: Yes, we do. We have, in our particular point of view, some good health and safety legislation in this province of ours, although obviously there is always room for improvement. The policing and enforcement of that piece of legislation leave, at times, much to be desired. I think it is important to note that during the debating process in the public hearings that have transpired, we heard management employees make presentations to the council about subtle ways employers had of saying to the management people: "Here you are as a manager. How does it look to the people who work for you if you don't

come in on Sunday?" The particular woman who was making that presentation had not worked, I believe it was, a couple of Sundays in a row, but then her employer spoke to her in a very subtle way.

As we said, there was nothing that could be pinpointed as a violation per se as it relates to the current legislation that is before us, but it is there, in particular in the retail industry. You will find, if you talk to people in the retail business, that they are very reluctant to step forward and say their employer said this or did this. They are very insecure. I am not talking about the organized retail people; I am talking about those who are non-organized, in those stores out there having employees who really fear their employer and who want to work. That may be their only source of income. Even though they may not want to work, they may want to be home with their family on that particular Sunday, they feel compelled because of maybe the threat of not getting enough hours, say, in the subsequent week. You all have to remember that most of the people involved in the retail industry are basically working on commission, so if you cut their hours, that is another problem to them, that is another subtle threat to them.

The other thing you have to remember in the retail industry is that when you are stretching the six days into seven, those hours may not change as far as the commission hours are concerned. They may be stretched out over seven days versus six days. There are a lot of things that come into play when you are talking about the retail industry and when you are talking about putting in legislation for a common pause day. These are all issues that have been fully debated before our city council and others. Unfortunately, they have fallen on deaf ears in our municipality. All we are asking is to let it not fall on deaf ears in this committee. Let us try to put the proper legislation forward for the protection of all workers, organized and non-organized, and, as I said earlier—even though Mr Sorbara said I should not be speaking for the business industry—to save some retail industries in this province as well.

Mr Lessard: Do you think this legislation is a big improvement with respect to the protection of retail workers?

Mr Parent: Absolutely. It is the first time the retail worker does have protection in it, as legislated in the proposed legislation. The only question we have is on the policing of such legislation.

Mr Fletcher: Gary, you said a few things as far as the cross-border shopping issue is concerned. How long has Detroit been open on Sundays?

Mr Parent: They have probably been open on Sundays ever since I can remember growing up in the community.

Mr Lessard: Do not ask him how long that has been.

Mr Fletcher: No, I will not. It has been a while, has it not? But was it not during the 1970s that transportation was coming this way?

Mr Parent: That is very true. I can remember when the dollar was extremely high—the US dollar, that is—and obviously we in this particular community enjoyed quite a profitable response from the American shopper at that particular time, which we also do today. Today, the American

tourist is encouraged to come over here. I think it would be a shame that we did anything to deter them from that.

Mr Fletcher: You have already hit on the points as to why people are going across the border and I agree with you fully. I think it is time to change that part of government that should be changed.

As far as the employment standards part of the legislation is concerned, it is going to be tough to enforce. I think even Mr Sorbara, when he was the Minister of Labour, realized that under his bill it is hard to enforce. Is there any way we can make it tougher, to make it enforceable?

Mr Parent: Obviously you would have to add on more staff into the employment standards branch, more staff in the Ministry of Labour, to have specific designations to police and to tour various retail industries across this province to make sure the legislation is being upheld. These are things that are very complicated, but I do not think you will ever get to the type of enforcement you would want to stop the subtle little pet peeves that the employers could push on to their employees. That is why we strenuously urge this committee to look at the common pause day and to put legislation into place that is going to protect the workers, yes, but to shut down the province the way that it had been in the past with only a few tourist-designated areas that are allowed to open. I do not buy the argument that has been set out by some of our councillors to the effect that it is unfair to those in the rest of the community.

Mr Fletcher: I know the Peterborough Chamber of Commerce was saying that it was against Sunday opening and Sunday shopping and that if you opened the stores eight days, people would find a way to shop on the eighth day.

I just want to touch on the point that you have been making quite clear—and I think the opposition members have not been picking up on this—that this committee is here to listen. What we have heard, as far as the chambers of commerce are concerned, is that they want nothing to do with it. We can make that change. As far as you are concerned, labour is saying it wants certain changes. We can make those changes. The opposition members are saying that this is a fait accompli, that this is the legislation, that this is the way it is going to be. Maybe that is the way those parties operated when they were in government, but this is different. That is what we are here to do, to make changes when we hear what the people want, so I am glad you did make that distinction at the time, that this is what you see this committee doing, more so than what your city council probably did.

Mr Parent: Absolutely, and I think in previous consultation processes that has happened. I just want to point out—it was in the Windsor Star, I believe, on Saturday night—that the town of Essex has done a survey, I believe, on the whole question of Sunday openings. The survey results proved once again that the people in the town of Essex do not want wide-open Sunday shopping, and yet one would look at the town of Essex as being a designated tourist area, being that it is in a tourist area, so to speak. So I think it is interesting to note that there are communities within the county of Essex that really do not want to have

wide-open Sunday shopping. The counterargument of course is: "Well, they don't have to. It's strictly voluntary." But again, one has to look at the whole question of competitiveness, as we pointed out earlier in our remarks.

Mr Fletcher: You are right.

The Chair: Thank you very much, Mr Parent and Mr Lewenza.

We have a small change in our agenda. Ms Cheryl Lucier is presenting now for a quarter of an hour, but before that presentation Mr Mills has a couple of points he would like to make in response to questions from two weeks ago. As you know, there has been a response from the Ministry of the Solicitor General attorney in regard to Mr Elston's and Mr Sorbara's questions.

Mr Mills: The week before last Mr Sorbara asked a question through me to the minister. Was the intent of Bill 115 competitive-driven? I want to say on the record that the intent of Bill 115 is not competitive-driven. The goal is to ensure a common pause day and protect retail workers.

Mr Sorbara: If I might, Mr Chairman: Generally, when the ministry responds to a question like that, the person who put the question is entitled to a supplementary. Perhaps we could do that after our friend's submissions.

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CHERYL LUCIER

The Vice-Chair: You can now proceed, Ms Lucier. You have 15 minutes.

Ms Lucier: My name is Cheryl Lucier, and I am a retail worker in Windsor. Although I am personally not faced with the prospect of having to work on Sunday, I feel I should make my views known. I strongly support the common pause day legislation and feel that it is an important move by the Ontario government to protect the rights of retail workers and to re-establish the importance of the family.

I have a criticism regarding the amendment to provide province-wide criteria for an exemption to holiday retail closing requirements for tourism-based businesses. To the best of my knowledge and experience, Windsor city council will apply for a tourist exemption for the entire city of Windsor. Based on the criteria for tourism exemption as set out by the former Solicitor General's office, the entire city of Windsor does meet the requirements for such an exemption. In fact, most communities in Ontario meet at least two of the top four requirements, which are: that the area must have either historical attractions, natural attractions, cultural attractions or ethnic attractions. These criteria are, in fact, the same qualities that we in Ontario are very proud of possessing.

It is clear to me that the Retail Business Holidays Act amendment should be more specific and be applied to the individual retailer rather than the community or the size of the business concerned. Such appropriate characteristics outlined by the Solicitor General are that the retailer should have historical or distinctive architectural features, feature items of cultural or ethnic appeal, or provide specialized goods or services, such as heritage or handicraft items.

The last characteristic, that the retailer must provide goods or services necessary to tourist activities in the area served by that establishment, is again too broad and all-inclusive and is based on location rather than the actual goods and services being provided.

The NDP government has pursued this important legislation to protect the retail workers of Ontario. It is a good law, but it must also be a strong and precise law to meet its objectives. Municipal councils must not be given the option of having their entire community declared exempt from retail closing requirements. We must have a law that will stand up in court and maintain the intent of such legislation. I trust this is an issue that has already been discussed and acted upon by our new Solicitor General and his staff.

Windsor city council is trying to fix the economic recession by declaring wide-open Sunday shopping. They perceive it as a remedy to cross-border shopping. We all know our economic problems are not so easily remedied. We must demand that our next federal government move to lower interest rates, make our dollar more competitive, and completely overhaul the Canada-United States free trade deal.

I would like to thank the committee for allowing me to express my views, and I applaud the Ontario government for its efforts to make Ontario a better place to live and work.

Mr Poirier: Madame Lucier, it is interesting that you say you are not personally faced with the prospect of having to work on Sunday. What have you seen or heard around Windsor that would make you feel the way you do, and what personal motivations do you have, if I may say so?

Ms Lucier: First of all, the store that I work at, our manager took a poll and asked people if they would be willing to work on Sunday. He was the only one who volunteered, so as far as that is concerned, the company I work for will not be opening on Sunday.

Mr Poirier: Do you have a medium-sized or small-sized store, or what is it like?

Ms Lucier: It is a large company in Windsor, and we do have some Sunday store openings, so it is being left up to the individual store. I do know a lot of people in the retail industry, though, who are definitely being faced with having to work on Sunday or face problems in their workplace.

Mr Daigeler: I am always struck, quite frankly, when I hear community representatives such as yourself, and before, union representatives, speak very strongly for one particular point of view and then I hear that the elected representatives, in a pretty well significant majority, decide another way. It leaves with me a very difficult feeling, as a provincial legislator, to step in and decide for the local people the way it should go. It would seem to me that the proper place, probably, to decide that is at the ballot box here in Windsor. Do you see that question of Sunday shopping becoming a major issue in the fall municipal election?

Ms Lucier: In the next municipal election, I think it should be made a very main issue.

Mr Daigeler: You said it should be. Do you think it will?

Ms Lucier: Personally I hope it will. It is unfortunate that in the city of Windsor we tend to have a city council that does not always stand up for most of the people. It is unfortunate; I do not know how we got into such a dilemma, but it is a problem we have here.

Mr Lessard: Federally too?

Ms Lucier: Yes, definitely.

Mr McLean: I want to thank you for appearing this morning as an individual expressing your concerns, because it is important that we hear from individuals.

Your short brief indicates very strongly that the exemptions will allow pretty near every city or town or village in Ontario to open under their criteria. You indicate that you feel they should be more specific with regard to the amendment, and you also indicate that you think it is a good law. What specific recommendations would you make, other than the individual retailer?

Ms Lucier: Other than the individual retailer? That should be a main requisite: what the retailer has to offer tourists who are shopping in the area on Sunday. As everybody knows, in Ontario we are very proud of our heritage and our culture, and by allowing city council to make a decision for the whole community, I do not think that is the way to go with this law.

Mr McLean: I guess the basic problem is with the exemptions, is it not?

Ms Lucier: Yes.

Mr McLean: If it was changed, which would not allow certain communities to meet the criteria, then a lot of small-town Ontario would not qualify.

Ms Lucier: And a lot of urban areas would not qualify as well.

Mr McLean: So your recommendation would be to take out some of the exemptions.

Ms Lucier: I think each individual retailer should be made to meet certain exemptions in order to be open on Sunday, and I think that is the intent of the law as it is stated. I have not read the full legislation, but as it is stated, they are trying to get down to the cultural and ethnic and tourist-based industry. That is the people they want to see open on Sunday, not the grocery stores and not the shopping malls.

Mr McLean: Maybe they should be more specific and put in some of those very types of businesses you are talking about, the large malls and the large retail grocery stores.

Ms Lucier: What do you mean, they should put them in?

Mr McLean: Put them in so that they would not qualify as an exemption; thereby they would not be able to stay open.

Ms Lucier: It is a very big thing to sit down and go through all the criteria. I believe the government should do that before the law is passed.

1030

Mr Lessard: Ms Lucier, I am glad to see that you were able to fit into a very full agenda here today. In your presentation you referred to some of the actions of city council and Mr Daigeler suggested there was a significant majority who felt the stores should be open on Sundays. Did you attend any of the city council meetings where this matter was discussed?

Ms Lucier: Yes, I did. I made a presentation to city council and the night that I made the presentation I would say at least 95% of the presenters were against wide-open Sunday shopping. That includes the retailers and the community, a lot of the big store owners in the community. The majority of the city of Windsor does not want wide-open Sunday shopping and I believe city council is acting against the wishes of the city.

Mr Lessard: As I recall, the vote was 5 to 4 in favour of passing the bylaw, so it was fairly close. You have mentioned that people working in retail establishments, if they did not work on Sunday, may face some problems in their workplace. Could you be more specific about that?

Ms Lucier: First of all, what it boils down to is that people entering the workforce, when we have wide-open Sunday shopping, are going to be hired based on the fact that they will work on Sundays. As for the people who are already involved in the retail industry, their companies, if we have wide-open Sunday shopping, are going to have to face the fact that they are going to have to open to compete. If we have seven days of wide-open shopping, the stores that stay closed are going to lose a percentage of that market and so, as far as I can tell, they are going to have to have workers who are willing to work on Sunday. If the people who are working there refuse, I think we are going to see problems.

The Vice-Chair: Thank you very much for that fine presentation. It is always really nice to see individuals presenting.

Mr Sorbara, you had one brief question to pose to the ministry.

Mr Sorbara: Yes, Mr Chairman. I do not think the ministry responded exactly to the question that I asked. I do not think my question was whether or not the legislation had an economic purpose, but I accept the answer.

My supplementary then would be this: Based on the fact that his submission to the committee was that the purpose of the legislation was to create a common pause day and to protect retail workers, would he be willing to submit to the committee a working definition of common pause day?

The reason I ask that is this: You will notice in the legislation, if you turn to subsection 4(2) of the proposed bill, it says, "The council, in passing a bylaw under subsection (1)"—that is the section that allows for retail businesses to be opened on Sundays and holidays—"shall"—the council, that is—"take into account the principle that holidays should be maintained as common pause days."

The problem that we have with that, and I think the problem many of the presenters have had during the course of these public hearings, is that the bill does not present any

definition of what a common pause day is. What the bill does, in fact, is ask councils around the province to maintain common pause days and yet the act does not define a common pause day. So I think the councils are going to be in a little bit of a quandary wondering what exactly it is that they are to maintain as they consider passing a bylaw.

So I am asking that the Solicitor General, through his parliamentary assistant, provide the committee at this point, with a working definition. Later on, down the road, I am going to be taking that working definition and bringing it up in clause-by-clause consideration of the bill and proposing that if we are really trying to create a common pause day, we give it some sort of definition. This of course will help municipal councils.

My request is that the parliamentary assistant either provide us now with a working definition of "common pause day" or have his ministry do so as quickly as possible. Can we have a response now?

The Vice-Chair: You will get it later, I am assuming, Mr Sorbara. Now the Ottawa Street Business Improvement Area, are they here? Okay, can we possibly go for a 15-minute recess, please?

Mr Sorbara: Mr Chairman, I think the parliamentary assistant has an answer to my question—okay, we will do it after.

The committee recessed at 1033.

1050

UNITED FOOD AND COMMERCIAL WORKERS

The Chair: We have before us a presentation from the United Food and Commercial Workers, Mr Tim Orbine. Mr Orbine, we have approximately half an hour. Please leave some time if you can for questions from the committee members.

Mr Orbine: Thank you, Mr Chair. I want to thank the committee for the opportunity to address you today and put forth the views from UFCW on behalf of our members. The UFCW—

Mr Sorbara: I am sorry to interrupt, Mr Chairman. Do we have a copy of this brief?

Mr Orbine: No, I am sorry, this is an oral presentation. The United Food and Commercial Workers union is Canada's largest private sector union representing some 180,000 members in the country. UFCW members are employed in more than 20 sectors of the economy, including the retail service, meat packing, food processing, brewing, beverage, distribution, fishing, general merchandising, health care, shoe and leather and banking industries. Locally here, I represent 18 units in Windsor and 15 of them would be directly affected by the legislation we are talking about.

Our position is that the present act fails to recognize the right of workers to a common pause day. The proposed legislation recognizes the need and importance of a common pause day in part I of the RBHA. The wording in the proposed amendment to subsection 4(2), such as "shall take into account" and "should be maintained" is too general. This achieves only a watered-down version of what is required. We believe it has not gone far enough.

The recommendation that UFCW is making is to ensure that the intent of the RBHA is consistently followed. The amendment to section 4(2) regarding municipal powers should read: "The council in passing a bylaw under subsection (1) must maintain the principle that holidays are to remain as a common pause day, that is, to ensure that they remain days on which most businesses are not open, days on which most persons do not have to work."

There was some talk this morning about freedom of choice and expression. Before, in front of the Windsor council, the majority of people who put forth briefs were opposed to Sunday shopping—and the majority were ignored. There are a lot of long-term retail employees out there who have enjoyed Sundays off for years. Their whole social and family fibre have been geared around one common pause day, that being Sunday. Unless we get airtight, specific legislation to have Sundays maintained as a common pause day, these workers will lose this right, the right that they have enjoyed.

When these employees chose to join these workplaces, they joined at a certain point in time when Sunday was the common pause day. Now, certain people, certain groups are blatantly violating the law; that started the domino effect and a lot of employers have had to get on the market-share bandwagon. They freely chose to come to these types of workplaces because they were not seven-day operations. Perhaps they came because they did have the Sunday off, and they wanted to enjoy the Sunday off. We are changing the rules in midstream for a lot of these people, or threatening to change the work lives for a lot of these people. That is a major concern.

Does the current legislation go far enough to protect the workers? When you spread the business over seven days, as Brother Parent has explained, all that does is spread the costs over seven days. So for retail workers, their work hours, the pool of hours, get spread over seven days. If they refuse a Sunday they could be penalized by losing hours; that is another concern we have. They might have the absolute right to refuse, but in doing so could be cutting themselves economically in the throat by way of a lesser paycheck.

The municipal option, we believe, is wrong. There are no regulations, no criteria and no principles to guide municipalities in making decisions. The will of municipal council simply predominates. The provincial government has no way of stopping wide-open Sunday shopping, or working. One has only to look at the high rate of applications for exemptions that are presently in the hands of the municipality for proof of the extent of this problem. Under the proposed amendment, the decision-making process would remain in the hands of the municipalities. In addition, the regulations and criteria of the tourist exemption set out in subsections (1) and (2) in section 4 of the the new amendments are so broad that they could potentially restrict no one.

Our recommendation is that the recreational, entertainment and cultural pursuits of tourists, as well as the goal of enshrining the common pause day, can both be accommodated by the law. To accomplish this, the UFCW

recommends that the proposed amendments be changed to reflect the following, the new subsection 4(1) to read:

"Notwithstanding section 2, and subject to the provisions of section 4(1)(a) and (b) below, the council of a municipality may by bylaw permit retail business establishments in the municipality to be open on holidays where it is essential for the maintenance or development of a tourist industry and where it is essential to meet the educational, cultural, leisure and recreational needs of tourists;" and

"(a) Only retail business establishments in which the total area used for serving the public, or for selling or displaying to the public, in the establishment is less than 4,000 square feet, and the number of persons engaged in the service of the public in the establishment does not exceed at any time four."

We believe the government must establish a committee of the affected people, who will prepare and recommend a new set of viable tourist criteria or regulations. These stakeholders should include the representatives of the affected groups, such as retailers, union and government.

According to the amendment, the tourist criteria as proposed would not form part of the legislation. However, we recommend that the new set of viable regulations established by the stakeholders mentioned above be integrated into the legislation. Further, the council's decision may be appealed by any interested party to the tourist exemption board.

I want to talk about enforcement. As I mentioned before, certain people took it upon themselves to blatantly violate the law. These original violators ended up with no fines, or minimum fines—so they just kept violating the law. That, in our estimation, created this domino effect and brought us to where we are today. If we allow this to happen and continue to allow it to happen, then the problem will never be solved. If we get a law and put a law in place, then we want it enforced.

The recommendation of UFCW is that the proposed amendment of the minimum penalty in subsection 3(1) be modified to include: "For first offences, the minimum fine for conviction be \$10,000, and for subsequent offences, the minimum fine for conviction be \$20,000." Also, that subsection 8(1) be amended to read: "Upon the application to the Supreme Court by any affected or interested party, the court may order that a retail business establishment close on a holiday to ensure compliance with this act or regulation under this act."

1100

At present, legislation similar to UFCW proposals exists in Quebec, allowing affected parties to apply for an injunction. The legislation has proved to be both workable and effective. In other words, if I am a worker and my employer is violating the laws, I can get an injunction myself. I do not have to ask the police to act on my behalf, because we have experienced that sometimes the police are not familiar with the laws or they could be too busy doing other things and it gets put on the back burner.

I also want to talk about the definition of a retail business. Under the present act the definition of retail business does not include club warehouses such as the Price Club. There is one just now in London, a very massive retail

store, another one just opening up in Kitchener, I believe, off Highway 8, and the current law allows for these clubs to be open. In the proposed amendment the government has not addressed the existing problem relating to the definition of a retail business and as a result club warehouses will continue to operate on Sunday.

I have also had some great deal of focus in this area on cross-border shopping, and our position is that Sunday shopping/working has nothing to do with cross-border shopping. Canadians go to the United States because the prices are cheaper, and it is that simple.

There are a lot of reasons for the cross-border shopping going on: the recession, the high level of the Canadian dollar, high taxes in Canada, the introduction of the GST, lower gas prices, lower cigarette prices and on and on. I believe there was recently a poll done by Agriculture Canada that food prices ended up 10% cheaper when you take away all the high-taxable items such as cigarettes and gas. We believe that is what is sending people across the border. We do not think that wide-open Sunday shopping will be a solution to this; it will be a Band-Aid effect, a desperate measure. We believe that just because we are in desperate retail times, we should not take desperate measures, because we hope we are going to come out of this and we do not want to tie ourselves into a law that we are going to live with for a long, long time.

I also want to talk a little more about the cross-border shopping. Locally I represent workers at the A&P and the Miracle Food Marts that have been converted to A&P, and Zehrs, as far as the major chains are concerned. I do have access to sales figures, but I think you can appreciate that I cannot disclose these figures at this forum. But I can generate the figures into general terms and I can tell you that A&P and A&P-Miracle Food Mart are down and were down during wide-open Sundays, when they were open. I can tell you that during this time frame these businesses laid off a lot of our members and Sunday opening was not a saviour; it did not get a lot of our people recalled. In fact, I can make the statement it did not get any of our people recalled.

We also represent, as I mentioned, the Zehrs workers. It remained closed. In the Zehrs corporation right now in the area that I service, there are no layoffs, there were no layoffs during the Sunday opening, and they are growing. Zehrs recently opened up in Barrie and before that they moved to Sarnia, and I think that is an example that the businesses are dealing with market share and how they attack the market share from within Canada. I think that just amplifies that factor.

I want to thank you for listening to me, and if anybody has any questions, I hope I can answer them.

The Chair: Thank you, Mr Orbine. Mr Mills has a point of clarification. Mr Mills is parliamentary assistant to the Solicitor General.

Mr Mills: I would just like to correct one thing about the Price Clubs. It is the view of the Ministry of the Attorney General that in the present legislation the Price Clubs are caught in the provisions of what is in place now, so to say they are exempt would be incorrect.

Mr Sorbara: The United Food and Commercial Workers have what I consider to be a good working definition of a common pause day. I have heard it in your brief and I have heard it in a number of other briefs. That definition, if I could just paraphrase it, is that a common pause day is a day upon which most businesses are closed and most workers are not called upon to work.

Ironically, the United Food and Commercial Workers have been supporting Sunday shopping legislation as a way in which to bring about a common pause day. Now the figures that have been provided to us from the Ministry of Labour—I think these are actually 1987 figures, but the figures have not changed all that much—suggest that some 3.7 million people in Ontario work in non-retail, non-agricultural occupations in Ontario. That is 3.7 million, in rough terms. At the same time, about half a million people work in retail. So just about 10% of the entire workforce works in retail.

The legislation we have before us will close some of the businesses that some of those retail workers work in. So, you know, in rough terms maybe 200,000 people will work in businesses that are forced to close on Sunday so they will have what the government considers to be a common pause day.

Would you not agree with me that when you pass legislation to close the businesses in which about 200,000 out of 4.2 million people work, you are not getting very close to a common pause day for the people of the province of Ontario?

Mr Orbine: I do not know about those figures.

Mr Sorbara: They are not mine. They belong to the Ministry of Labour.

Mr Orbine: Right, and what year were they, 1987?

Mr Sorbara: Yes, 1987.

Mr Orbine: All right. We have all seen the impact of the GST, and if it keeps up the way it is going, there will be a lot more employed in the retail and the service sector.

Mr Sorbara: But this legislation does not cover the service sector; it just covers the retail sector.

Mr Orbine: I understand that. I am just saying there will be a lot more jobs in that sector. Part of our argument is also the spinoffs of the police force and the overhead that is involved with maintaining these workforces and the families and the lives of all those people that are affected, not only the workers.

Mr Sorbara: But still, would you not agree with me that if the government were interested in bringing about a common pause day, it would close most businesses in most sectors on Sunday? Again, even though we have lost jobs in every sector, including retail, 90% of the workforce does not work in retail. So if you wanted to bring about a common pause day, you would attack the 90% and let the spinoffs occur in the 10%. Would that not be a more logical way to go about bringing about a common pause day for the people of the province, in accordance with your definition of a common pause day?

1110

Mr Orbine: No. I believe we have got to walk before we can run. We have all seen the chaos that this has created, by your figures, to 10% of the workforce, and let's satisfy the 10% that have had it historically, and then if the 90% do wish to get that, and hopefully we do get an airtight law that everybody is happy with, then we will look at that.

As far as my non-retail sectors are concerned, they are compensated by way of double time and the premiums that Brother Parent.

Mr Sorbara: But that does not bring about a common pause day.

Mr Sorbara: I have just one more question. I want to talk about the labour legislation aspect of this bill. You talked about the difficulty of enforcement. Legal counsel tells us that under the provisions of this bill every member of the United Food and Commercial Workers union could enforce their rights not to work on Sunday and that could virtually guarantee that no reprisals would be taken against those specific workers who tried to exercise their rights. That is to say, all of the members of the UFCW could insist that they have the right to exercise and do exercise their right not to work on Sunday, an absolute right to refuse. So does this bill, no matter what else it does with tourism criteria, not provide your members with an exclusive opportunity, a good, exclusive, airtight opportunity, not to work on Sunday and to have a common pause day, at least, common to the rest of the members of the UFCW? Does that not create an opportunity for you to expand your organizing ability because you will be able to help your members enforce those rights?

Mr Orbine: No, we do not believe that, and I go back to the point—

Mr Sorbara: Are you not going to insist that none of your workers work on Sunday?

The Chair: Let him answer.

Mr Orbine: I go back to the point where, let's say, for example, you are a retail worker in one of the shops and you are currently getting 24 hours a week and have three hungry children at home and the business opens up to seven days and you want to exercise your right. You go to church every Sunday, it is your family day, for whatever reason, and you want to exercise that right and your boss allows you to do that—

Mr Sorbara: But your union prohibits you from doing that.

Mr Orbine: Just a second. Can I answer the question?

Mr Sorbara: Sure.

Mr Orbine: Thank you. By doing that over the next schedule, by limiting your Sunday, then you suffer that amount in hours, and although contractually you might be getting the right amount of hours; because you restricted your availability on that Sunday, you would lose those hours that you were entitled to, and therefore at the end of the week, when you incorporate the Sunday to Saturday, you would be down in hours and you would be hurting yourself economically.

Mr Sorbara: But how does the business open if all of the workers insist on forcing their rights? That is what I do not understand. How is he going to open the shop?

The Chair: Thank you, Mr Sorbara. Mr Carr.

Mr Carr: Thank you very much for your presentation—it is my turn now—and I think you are right when you talked earlier about some of the reasons for the cross-border shopping. We had a chap in from Tip Top Tailors, I believe it was, and he said we can compete selling shirts, but the reason people are going across the border is for booze, cigarettes and gasoline, those three commodities, and as you will note in the last provincial budget, this provincial government increased the taxes on all three of those items. So I agree with you on that point, and I think that your agreement with the government of a common pause day is there.

The Premier said he wanted to have a common pause day. You agree. Where your union and a lot of the unions disagree—and you heard Gary, who was here earlier—is when the Premier says that this law that he has brought in will give a common pause day. You heard Gary say earlier that unless there are changes it will not, and across the province in our dealings so far, your union has said the same thing, “Notwithstanding the fact that the Premier said that this is great legislation, that we will have a common pause day, we disagree.” I was wondering what your thoughts are. If this legislation remains the same, has the Premier of this province broken his promise to have a common pause day?

Mr Orbine: I believe that if this law is passed, the lawyers will get very rich defining the laws, and our members, in our estimation, will suffer while we legally battle out the interpretations and exemptions of these laws. Has the Premier broken his promise? I can answer that it is a step in the right direction, but it has not gone far enough. I guess in the context that it has not gone far enough perhaps it could be a broken promise. We are encouraged by what has been done, but it has not gone far enough.

Mr Carr: One of the big concerns you have, of course, is that it has now been thrown in the laps of municipalities. They are going to be the ones to decide whether we open. There are those who have said this was done to get around breaking the promise and that when they open up, as inevitably they will—and just so you know, Collingwood says it will be open; Thunder Bay and Kenora did; some of them say they will not; I think North Bay municipality said it will not; if I remember, Kingston said certain sections will be; Ottawa will not be—there is no doubt that significant portions of the population will have Sunday shopping if this legislation is not changed and it is thrown back in the municipalities’ lap. You seem to be saying the province should take more of a role and that the province should make sure these tourist exemptions are tougher. Is that really where your concern lies with the exemptions, the fact that they are so broad that, as Mr Parent said, you could drive a Mack truck through them?

Mr Orbine: Under the law it is open for interpretation. I believe I could hire a lawyer in conjunction with putting a bird feeder on the front of my business and

selling an Eskimo carving, and I could be wide open. I believe I have counsel that would support that position in the courts and hope for a win and, as long as I did not force my workers, I could open my business and then the domino effect would force other businesses to open and we are right back to square one.

Mr McLean: You have a recommendation in your brief where council may permit the stores with 4,000 square feet and less than four people to be open on a holiday, with regard to a tourism exemption. The previous legislation, before the Liberals brought in theirs, had the tourist exemption in it. I believe you have even tightened up the tourist exemption that was already there. I like your brief. I think you explain very well the legislation we have now and I believe the exemption you are bringing in is even tighter than the previous exemption. That is what I see you are aiming at: tightening it up but only allowing tourism.

Mr Orbine: Further to that part of the brief, if we do set up a committee and define what the regulations are on tourism, I think that is the key to it—I mentioned about the bird feeder, or dig a fish pond in your backyard—we have to define what it is. In the event there might be circumstances where a genuine tourist business that could be closed by this act might be exempted, such as a large postcard and knick-knack shop in Niagara Falls, let’s list them and put in the proper exemptions for those people as well, because we are not trying to hurt genuine tourist business.

Mr McLean: Who else is making recommendations like you have? Do you know of anybody and has there been any input into the ministry with regard to what you are saying? I have not seen any and I was just wondering whether you know of any others.

Mr Orbine: No, this is my first presentation in this area, although I was at town council, but as for submitting the briefs I do not know. I believe that would be done through Toronto with most of the larger organizations.

Mr McLean: Well, you have done a good job. Thank you.

The Chair: In deference to the amount of time taken by the previous caucus, you could have another minute if you have other questions.

Mr McLean: Okay. The right of workers to refuse work is a very important one. I had the opportunity to sit in on Bill 70 and it really does give any worker the right to refuse Sunday work. However, I accept the example you give with regard to the 24 hours and that those people may not be as favourable with the boss to get extra time or continue with their time. What further comments have you got with regard to Bill 70—maybe you are not aware of it—and with regard to Sunday work?

Mr Orbine: I represent 3,000 people in this area and the boss is the boss, no matter what you do; no matter if he is a likeable fellow or the biggest unlikeable fellow going, he is still intimidating. Let’s say they exercise their right and give 48 hours’ notice; you could certainly hide the fact that it is retaliatory. If I were a boss and all of a sudden

everybody is working to rule—there are other subtle ways of intimidating employees so they cannot be caught and are very hard to prove. I go through this all the time in union shops. We are not the majority.

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Mr McLean: I think Bill 70 covers that worker now. If he feels he is discriminated against in any way, he can talk to the director and appeal any decision and the layoff and that employer will have to put him back to work.

Mr Orbine: What average Joe on the shop floor is going to go through this kind of tribunal? If I am a student or a mother and suffer that kind of harassment, it is not worth the fight to go the employment standards. It is easy if you have a union backing you, but for the average Joe to pick up the phone, file charges at employment standards and make representation—it is easier to try to find another job. I still maintain that the boss is the boss and there are ways of intimidation that cannot be proven and there are retaliatory ways out there. I have seen it for years and years.

Mr Lessard: I will try to be short to give everybody an opportunity to get in there. You mentioned the experience you had during the time of wide-open Sunday shopping at your own store and people not being recalled from layoff in order to take advantage of those additional hours to work on Sunday. Can you explain that? What took place? Why were those people not recalled?

Mr Orbine: The point I was trying to emphasize is that we have two major chains that are open for business, are suffering and laid off their workers. All this talk of Sunday opening as the so-called saviour of our retail businesses did not happen in A&P and in the Miracle Food Marts that converted to A&P. That is the point I was trying to emphasize. Those employees got laid off within that time frame and subsequently did not get recalled, so there was absolutely no impact on them.

Mr Lessard: Your experience then is that opening on Sunday would not create additional employment for your members?

Mr Orbine: No. the hours are spread.

Mr Orbine: I go from Chatham to Windsor so it is kind of hard to figure out Windsor. Ballpark is about 3,000 overall between Chatham and Windsor. In Windsor I have 18 units and in Chatham I have 10.

Mr Morrow: That is quite a lot, actually. I was wondering, is there any new money being presented by Sunday shopping, or do you see it as just old money being put over seven days as opposed to six?

Mr Orbine: The business is spread. If I have a wife and two kids and they eat \$100 worth of groceries over six days, just because it is open Sunday I am not buying \$150 worth. That has always been the theory and I think it has always applied.

Mr Kormos: You and all the other people who took time to come here today, I thank you. I come from Welland down in the Niagara Peninsula, a small community with a downtown that has suffered like so many other small-city downtowns. The plazas and the development around the periphery have, in some people's minds, driven the final

nail into the coffins of downtowns, yet the people who maintain their downtown businesses that I am familiar with tend to be small family-run businesses. They do not have a large number of employees but rely upon the labour contribution. They work six days a week as it is.

Some people have been saying that if there is wide-open Sunday shopping, there is just no way the clothing store or the specialty goods store that is run by a family can compete with—dare I name names—the K mart or the big chain store that hires, sadly, as often as not, lowly paid and non-unionized people. There is no way they can compete seven days a week. They are already working six days a week. Even as it is, they need that seventh day perhaps to do book work or clean up the shop or what have you. People are saying if there is wide-open Sunday shopping, if you think small businesses in downtowns have been hit hard now, just watch until we have wide-open Sunday shopping and downtowns will be real ghost towns. What do you say to that?

Mr Orbine: I say that is absolutely true. If a person gets in the car because he is out of milk and Zehrs is here and Beckers is two miles down the road, it is human nature to go to the closest spot. I know they have been suffering. In fact, there are articles in Toronto about the little associations standing up and shouting they do not want this. It is a question of market share.

Mr Kormos: But those big plazas and big chains have the bucks and the format. We have to work even harder to fight for small, family-run businesses. Thank you.

Mr Fletcher: This is a follow-up question I asked in Peterborough, so you may get the second part of the question now. I was asking about the produce people would buy in the store on a Sunday, whether it was Sunday produce, and was surprised to hear that it was delivered on Saturday because the delivery trucks do not run on Sunday.

Now I am going into the domino effect. If we get into wide-open Sunday shopping, does the domino effect go into sectors other than retail? In other words, are we looking somewhere down the road where the delivery people have to be working on Sunday to deliver fresh produce to the stores and other things? And then, once we get past the delivery people, do we get into the manufacturing businesses themselves, such as packaging and everything else to supply them? That is the domino effect I am looking at, not so much just the stores opening but, as we go through the whole system of supplying stores on Sundays, is that a possibility? Is that something you are afraid of?

Mr Orbine: I think the briefs that have been and will be submitted to city council on behalf of the various groups today speak for themselves. Any time you get Sears and UFCW and the churches and on and on standing up and holding hands in a fight together, that speaks for itself. That is the domino effect, when you get a major union and a major retailer standing together on an issue. I believe that speaks for the domino effect on its own.

Mr McLean: Mr Chairman, on a point of clarification: Is the food terminal in Toronto open on Sundays?

Mr Mills: No.

The Chair: You still have some time. All four of you have asked questions and you are still under the wire.

Mr Fletcher: Yes, I know. I will continue, Mr Chair. As far as the cross-border shopping is concerned and the stand UFCW has on cross-border shopping and Sunday shopping, I keep hearing from a lot of the border communities that if we are open Sundays we can compete, and yet everything I have been reading is that wide-open Sunday shopping was the time during which the cross-border traffic started to increase. We know it is GST, free trade and everything else.

What I am coming down to, and you address it in your brief a little bit: How do we combat the cross-border shopping issue and still have a common pause day when I am hearing from businesses—and I have to listen to what the business community is saying—that this is going to help?

Mr Orbine: I think it is a question of education, that unions and businesses and government have to get together and educate the people as to what the impact is. I have had many an argument with many a person as to crossing the border and shopping over there. It is hard to debate with people when they say: "I can cross the border and buy my brand of cigarettes and my brand of booze imported. Who am I putting out of work? It's made in Canada." Their argument is that they are still supporting the Canadian workers and manufacturers and their businesses and that they are just purchasing it somewhere else. It is an education process that these tax dollars go back into our social programs. I think people have to understand that and there has to be an education system put in place.

The Chair: Thank you very much, Mr Orbine, for an interesting presentation.

Mr Fletcher: On a point of order, Mr Chair: I would just like to have you know that Mr George Dadamo, the member for Windsor-Sandwich, is in the crowd.

The Chair: I should mention a couple of things before our next presentation. First, we have simultaneous translation for anyone who wishes it. Second, we have another change in schedule. The Ottawa Street Business Improvement Area, which was scheduled at 10:30, will be showing up at 1:30 this afternoon.

1130

CONVENTION AND VISITORS
BUREAU OF WINDSOR,
ESSEX COUNTY AND PEELEE ISLAND
DOWNTOWN BUSINESS
ASSOCIATION OF WINDSOR

The Chair: Before us now we have Mr William Docherty, Mr Sergio Grando and Mr Tom Racovitis from the Convention and Visitors Bureau of Windsor, Essex County and Pelee Island and from the Downtown Business Association of Windsor.

Mr Grando: Distinguished members of the Legislature of Ontario, good morning; welcome to Windsor. My name is Sergio Grando. I am the general manager of the Convention and Visitors Bureau of Windsor, Essex County and Pelee Island. I am making this submission on behalf of

the board of directors of the bureau who represent the interests of the local tourism industry.

To say that Sunday shopping has become a controversial issue is indeed an understatement. However, as with any public controversy, very strong community positions, both pro and con, become entrenched. This issue is certainly no exception. The board of directors of the convention and visitors bureau is in favour of open Sunday shopping. Our position is based on what will best serve the needs of our struggling tourism industry and will enhance the competitiveness of our product in an already overcrowded marketplace.

It is important to note that locally the tourism industry employs approximately 12,000 people, making it this area's second largest employer and second only to manufacturing in terms of revenues generated.

To have any significant opportunity for survival in this very competitive industry Windsor and Essex county must continue to strengthen their existing tourism product. Only through aggressive and visionary ambition can tourism become a contributor of economic diversification and, more important, a catalyst for improving the quality of life in our community. After all, the very least we can expect for Windsor's future is an improved quality of life.

I have been employed in the hospitality industry for over 16 years. Having to work on a Sunday or holiday is intrinsic in any hospitality/tourism-related business. Having said that, I do not believe that I or those who are similarly employed in the hospitality industry have a lesser quality of life. All these employees still enjoy a common pause day. They still enjoy quality time with their families and they can still practise their religious beliefs. In all honesty, to resolve most if not all the concerns associated with Sunday shopping is a matter of proper scheduling. It can be done. It is done every week. Just ask any hotel-motel manager or operator of any of our local attractions. The real issue is truly proper scheduling.

Perhaps a more specific question deserves some further attention. How important is Sunday shopping as a direct tourism benefit to our area? First, we must recognize that the Windsor area relative to the rest of Ontario is in a unique geographic location. The state of Michigan, our immediate American neighbour with six million residents within one hour's drive, allows open Sunday shopping. Windsor is primarily a day-trip, short-trip destination. Our research indicates that the two major demand generators for Windsor are shopping and dining. If we are to compete effectively in a region that allows open Sunday shopping, then the Windsor area must be given the same competitive advantage.

By this I am not suggesting that open Sunday shopping in and of itself will stop the current cross-border shopping craze. It will, however, encourage both visitors and residents to spend their dollars in the Windsor-Essex area, which in turn adds to a healthier, more stable economy and helps to create jobs.

The position of the board of directors is not driven by political or religious or moral issues, but rather the positive effect Sunday shopping will have on our local tourism industry. The mandate of the convention and

visitors' bureau is to promote Windsor, Essex county and Pelee Island as a viable tourism destination. Accordingly, we are the sales and marketing organization that represents the local tourism sector. It is therefore inherent in our mandate to generate business by attracting visitors to the area.

Research indicates that over 70% of our visitors are American. One of their prime activities is shopping. For a visitor to Windsor and Essex county, whether on business, as a tourist or attending a convention, shopping will be one of the top three activities while staying in the area. In fact, 67% of all visitors to our area shop. In particular for American visitors, the idea of coming to a safe, clean, friendly environment in a foreign country to shop, dine and partake of other leisure activities is both appealing and inviting.

Recent statistics indicate that North American travel trends show an increase in the frequency of vacations. However, these trips have become shorter in duration, which further emphasizes that travel encompassing the weekends is a growing market segment.

To cite an example, the bureau has several major motor coach tour operators who are each doing over 20 overnight bus groups to Windsor a year. Most of these are indeed occurring on weekends. We have been told that the availability of Sunday shopping, albeit it is pretty sparse, was a major factor in coming to this area. So to curtail a major leisure activity on one of the two days available to a visitor, especially when we are competing in an area that allows open Sunday shopping, clearly puts the Windsor-Essex county area at a disadvantage. At the same time, we are missing a tremendous opportunity to generate substantial tourism revenues.

Surely we cannot remain blind to the reality that Windsor and area merchants are losing millions when local residents spend their dollars in Michigan. Cross-border shopping has contributed to a national travel deficit of \$1.5 billion in the second fiscal quarter of this year. Cross-border shopping is costing thousands of jobs and an estimated \$2.2 billion in lost business this year alone. The figures are indeed epidemic.

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Unfortunately we cannot control the new GST policy or the overvalued Canadian dollar, both of which have a tremendous negative impact on our ability to compete and attract visitors. However, we can counter these uncontrollable factors with policies we do have some control over. This can be accomplished by the government of Ontario amending the Retail Business Holidays Act to allow retail business to open unrestricted on Sundays and holidays. The government must allow the principle of supply and demand to determine hours and days of operation.

In conclusion, if we are to prosper in the 1990s and into the 21st century, then we must separate rhetoric from deed and we must rethink, review and reanalyse our priorities. Laws of old may not always be applicable to rapidly changing social and economic environments. We in the Windsor-Essex area simply ask for the tools necessary to develop our local tourism industry. We beseech the government of Ontario to give open Sunday shopping due consideration. Thank you very much.

The Chair: Thank you. Seeing as you have concluded your presentation, we have approximately six minutes per caucus.

Mr Sorbara: Mr Grando, participating in these public hearings is a little bit like taking a journey with Alice through Wonderland. We have, for example, the government proposing to bring about a common pause day but not telling us what a common pause day is and in fact bringing forward legislation that will affect about 250,000 workers of 4.5 million workers in Ontario.

We have the Windsor District Labour Council saying it is opposed to Sunday shopping for, among other reasons, to protect small businesses in Windsor. At the same time, we have small businesses in Windsor saying, "Thank you very much, Mr Parent, but we will protect ourselves and we want an opportunity to open if we want to open."

We have the United Food and Commercial Workers locals right around the province saying they do not give a darn about additional rights for workers, the only way to protect their workers is to make sure every store is closed. In virtually every other situation, trade unions are arguing for enhanced rights for workers. They say, "Give us those rights and we'll make sure that we enforce them."

To me, the greatest irony in all of this is the discussion about workers, because the government pretends it is doing this to protect workers, it has nothing to do with anything else but a reasonable protection of workers in the province—again, just 200,000 of them, but workers. On the other hand, we have businesses, both in the tourism sector and in other areas that say they would never use coercion against an employee who did not want to work on Sunday. We have heard that testimony from businesses right around the province from the employers' side.

Now, I want to hear what the situation is with the businesses you represent. If a worker says, "I don't want to work in the bar on Sunday," or "I don't want to work in the rooms of the motel on Sunday," is there an unwritten rule that if you are an owner of that business, you are going to take it out on that worker when that worker wants a day off or when that worker asks for some consideration or something like that? What is the real situation in the real world of the businesses that you operate?

Mr Grando: Basically, if you are in the tourism industry, you are operating seven days a week.

Mr Sorbara: What about people who do not want to work on the seventh day?

Mr Grando: Again, they are not working seven days. Individuals are not, to my knowledge—

Mr Sorbara: Well, that would be against the law.

Mr Grando: —unless they request additional time, working six or seven days. By and large, they are working their five-day week. It is just spread out differently. I will cite an example of a hotel. You are all familiar that a hotel operates 24 hours a day, seven days a week, 365 days a year. It is a fallacy to suggest those employees cannot practise their religious beliefs, are coerced to work on a Sunday when they do not want to, each and every time. I just do not believe that is the case. I have been involved in this industry, as I have indicated, a number of years. We do

not hear that. We do hear that people sometimes do not want to work a Saturday or a Sunday, but that has got nothing to do with the issue of open Sunday shopping. It is just a preference that sometimes you may not wish to work that particular day, and the fact that it is a Sunday is immaterial.

Mr Sorbara: What happens if a worker says to you, "I would like to work at your hotel or your restaurant, but I have three children and I would like a schedule that does not involve Sundays"? Do you say, "Sorry, go someplace else?"

Mr Grando: Would I personally say that? I do not know. I guess we would have to review the individual merits of the case. First of all, someone who wants to be employed in this industry, by and large, recognizes that it is intrinsic in the nature of the business that the operation is open seven days a week. You do not necessarily work the seven days a week.

Mr Sorbara: You argued, I think eloquently, that shopping is an integral part of the tourist industry, so that the person who is here in Windsor for one or two or three days looks forward to spending some time at the museum, some time on the water and some time shopping in the downtown area or the malls or whatever. Again, the Alice in Wonderland kind of fantasy in these hearings is that the other side is arguing that shopping has nothing to do with tourism, that people come to Windsor or to Toronto or to London as tourists for reasons other than shopping. Do you have statistics to support the proposition that the ability to go out and browse or purchase is important to the individual who comes to Windsor or comes to London or comes to Toronto or comes to Lord knows where in Ontario?

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Mr Grando: Absolutely. That is what people do when they are going to any destination in this country or anywhere abroad for that matter. Shopping is part of the activity. There is no question about it. As I indicated, our statistics show that clearly two thirds of the people coming into the area participate in shopping of one form or another.

Mr Sorbara: If the freedom of choice to open or close on Sunday—this is my last question—is granted to the province and to the city of Windsor, do you believe that will solve the cross-border shopping, or will it have some small impact on cross-border shopping?

Mr Grando: As I indicated, I think it will not solve the overall issue of cross-border shopping, but I think it will give residents and visitors an opportunity to shop in their own backyard or to shop on this side of the border when they are here on visits. Right now they do not have that luxury, or they have that luxury in very limited forms.

Mr Docherty: You asked a question that begs an answer. You asked, what do you do in a hotel or a business particularly on Sundays or Saturdays? I ask you, what do you do with a policeman, a fireman, an airline pilot? This is a place the government ought not to be. My goodness, private industry has to arrange its own situation. You asked

another question. If somebody does not like what an employer does, the Ministry of Labour is a very large organization in Ontario. It encompasses all businesses which employ anybody in any form whatsoever, and the complaints that wind up there are the kind of complaints you are talking about if one is segregated or if one is discriminated against in terms of work habits, etc. There is ample legislation in place to deal with all of these matters. Certainly the government has no business becoming involved further in this.

The situation that we are talking about here, most of us at the table, is tourism. We had designated areas for that. On the outskirts of the city that is something else. Downtown in this hotel, downtown in the hotel next door and the 1,000 rooms we have around here, when they come to us from Detroit—where all of us are members of the tourism and convention bureau—the question you ask is what to do. When you come to a hotel room, you do not stay in it and look out the window at the fine skyline to the north. You want something to do, and that is a what-to-do. That is how they describe it in the industry. With no what-to-do you are dead in the water.

The Chair: I am sorry. Could you identify yourself?

Mr Docherty: Yes, I am Bill Docherty. I am talking on behalf of the Hotel Association of Canada.

The Chair: Thank you very much, Mr Docherty. It is simply for the purposes of our recorder. They are not going to be able to identify voices.

Mr Docherty: His questions begged answers. They were simple questions and there are simple arrangements in place.

The Chair: Gentlemen, do you have an additional presentation to Mr Grando's?

Mr Docherty: This gentleman is going to make a presentation and I am going to say a few words.

The Chair: Perhaps we have a bit of a difficulty because after Mr Grando had finished there was a silence and no one continued, so we may have some difficulty in terms of having any questions after your presentation because we also have, of course, the questions for Mr Grando.

Mr Sorbara: Might I just suggest that we continue till about 12:10 and solve that problem that way.

The Chair: We will be doing that, but we still will not have time for questions. Mr Carr, go ahead.

Mr Carr: I was just going to say I would give up my time. I would much rather have their presentation than my questions. I see the nods from the government side. Maybe we could forgo our questions.

The Chair: Mr Morrow, are you in agreement with Mr Carr? Mr Carr was suggesting that he would forgo his time so that the gentlemen from the Downtown Business Association of Windsor could make their presentation.

Mr Morrow: As long as they make it short and brief, Mr Chairman.

Mr McLean: I think they should be allowed to make their presentations, and I think our party and the

government should be allowed the same time as Mr Sorbara's party was allowed for questions.

Mr Fletcher: Are you forgoing your time?

Mr McLean: No.

The Chair: No, we are just rearranging it so that the questions will start up again after the presentation is finished, starting with Mr Carr and then yourself.

Mr Winograd: My name is Ralph Winograd. I have been a merchant in the downtown area for 30 years. Along with my wife I own a ladies' retail shop on Ouellette Avenue, where I have been located for the last 10 years. I have also been a member of the board of directors of the Downtown Business Association of Windsor for the last 10 years.

This contentious issue seems to be a little clouded with the Sunday shopping issue. Whether the Sunday shopping or opening issue is a major saviour or the saving grace for the designated tourist issue or vice versa does not make a lot of sense to me. I thought we were here to speak on the benefits of having a designated tourist district. The DBA has been recognized since 1982 as a designated tourist district. It is a wonderful tool to complement exactly what is has been established to do: complement the hotel and restaurant association in attracting tourists to downtown Windsor, to bring in new dollars to downtown Windsor and to allow for the tourists coming in for conventions, staying in hotels, to have something to do when they get here. When they are looking at an area to come into, they want to know what the entertainment benefits are, what the restaurant benefits are and what the shopping benefits are.

Windsor, with a population of just under 200,000, has a high concentration of retail and restaurants in the downtown area to service not only Windsor but the Michigan market as well. That American market has six million residents within a one-hour drive of downtown Windsor. Consequently, our hotel, restaurant and retail community consists of seven major hotels, 86 restaurants—full-service and fast-food—57 apparel and shoe stores, 24 china and gift stores, nine fur stores, 15 jewellery stores and four bingo halls.

The soon-to-be-completed expansion of Cleary Auditorium and Convention Centre within the hotel cluster will enable Windsor to be a major contender for conventions. We are also in close proximity to Cobo Hall, which is approximately five to 10 minutes away in downtown Detroit. That had an estimated 2.2 million people attending 45 major conventions and trade shows in 1990. For the tourists, downtown Windsor offers an appealing, safe, friendly, clean environment in which to come and have a convention, address themselves to entertainment, shopping and whatever.

With regard to what we can present to continue our designated area, we have historical and natural attractions: the Dieppe Waterfront Park, the Detroit River, the Detroit skyline and historical churches. Culturally, we have ethnic attractions, the art gallery, the Hiram Walker Historical Museum and the Spirit of Windsor. The arts council has just taken over the Capitol Theatre and will provide entertainment of all types for tourists of all ages. We have a major concentration of fine restaurants, 90-plus eating

establishments which include the best of Chinese food, Vietnamese food, steak restaurants, seafood restaurants and fast-food restaurants. We have Canadian fashions, fine china, collectibles, Canadian prints, paintings, boutiques, souvenir shops. For recreation, we offer the YMCA, racket and fitness clubs, bingos, movie theatres, dinner shows, comedy clubs, live music, the infamous Windsor local ballet establishments and Dieppe Waterfront Park.

Mr Sorbara: Is that what you call it?

Mr Winograd: We will try to class it up in the best way we can and keep this in sort of a spirit in which it is meant to be. We have International Freedom Festival in June and July with the United States; Caribfeste, which was just completed a week ago; the re-enactment of the War of 1812; Wheels of Freedom Antique Car Show. All of these express the criteria under which the downtown area should be allowed to continue its designation.

That it is the saviour of any kind of economics in Windsor is foolhardy, but it is a tool to complement exactly what has been established, and that is a designated tourist area to attract tourists, to complement the conventions that will come to the city, to give the tourists who are coming into Windsor an opportunity to have activities to complement the convention itself and give them an opportunity to get out and see our city, to give the tourists coming here another reason to be in Windsor. The reason I am making this presentation is to see that we are extended our designation.

The Chair: After your presentation, I think the committee should negotiate with the bus company to see if we can delay our departure. We have, again, starting with the Conservative caucus—

Mr Docherty: I have a presentation.

The Chair: I am sorry. Is there one more presentation?

Mr Docherty: I will be very brief.

The Chair: Okay.

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Mr Docherty: My name is Bill Docherty. I am a lifelong resident. I have been in the development and construction industry and some other related ventures for 35 or 40 years. To enlarge on what my friend has said, the population adjacent to us here consists of four states: Michigan, Ohio, Indiana and Illinois. The combined population of those states is in excess of 50 million people. Most of those states are within a comfortable drive of this city.

In Detroit the metropolitan airport has direct flights to Frankfurt; Paris, France; and London, England; all non-stop. It handles three times as many flights as Toronto airport and has continued a mode of expansion that is in the billions right now, in terms of planning. The facilities that we have across the river in Cobo Hall are the largest clear-spanned area of convention facilities and exhibition area in the United States.

We have a number of hotels that have been built. I built this hotel and the one next door, sold the land for one just behind the parking garage. To ask us to not support the "what-to-do" on Saturdays or Sundays, whatever day it is, would certainly be foolishness on the part of anybody,

because people have to have a what-to-do. The single biggest factor in the hospitality industry is the what-to-do.

The proximity of our downtown to the downtown of Detroit cannot be overlooked. It is very close. The hotels in Detroit enjoy a good business from the Cobo but so do the hotels here in Windsor. When you bring people over here, you have to have something for them to do. It is absolutely imperative that our downtown be open because the tourism industry in Canada is the second largest industry you have. If you shut it up you are only shooting yourself in the foot. The sooner we all understand that the better. That concludes my remarks.

Mr Carr: Thank you for your presentation. I have a question to Mr Winograd. You may have been here earlier when Mr Kormos was talking about protecting the downtown business people, particularly the small shops that may be run, like yours is, by a husband and wife. He was saying to one of the early presenters that if we have Sunday shopping, that may be the final blow to push some of the small downtown businesses out of existence. You have had Sunday shopping, I guess, going back to 1982. Those are the very people that Mr Kormos was talking about. Has Sunday shopping in fact driven them out of business?

Mr Winograd: Sunday shopping did not put us out of business. Most assuredly, my wife and I are the mom-and-pop of the 1990s. We run our business and since 1982 we have run it seven days a week. We have never had a problem staffing it. We have never had a problem having people work for us. We have probably the least turnover of anybody in our business. When we entered this business we knew what we were up against. It comes with the territory. Who is fooling who? Did we know 15 years ago there would be a GST and an excessive amount of cross-border shopping? Not to this degree, but we knew that cross-border shopping was available in Windsor and will be available in Windsor for ever.

Hiring people or not hiring people really is not as important in the overall picture as the high Canadian dollar or the new GST. It is in there, but it does not have a priority 1, 2, 3, 4, 5. For us, we will take another day off and when we have not got staff to work on Sunday, my wife and I will work on Sunday. Being Jewish, we take the Jewish holidays and we do not work and our staff works those holidays. When Easter and Christmas come, we work and our staff does not work. On Sundays when there is a wedding or an event that someone cannot work, we work. When we need to be away on a buying trip somebody else comes in. Nobody works the seven-day week. They work a certain number of hours within the seven-day week that is comfortable. We always have a student working for us and that student gets the weekends, with one of the staff members on one week, with my wife and I on another week and a third member on another week.

That is not the problem. In developing a tourist district, and being a good community business, we have to have the tool of being open. You cannot take that tool away. You cannot develop any kind of a tourist business if you do not give us the hours to be open. It is really simple. You take those hours away and we cannot service the person who

wants to be in business. That is the question here, not cross-border shopping, not the high dollar. These things will kick in and be an advantage to us later on, but we are now back to step one in developing a designated tourist district and we have to have the hours to be open.

Mr McLean: The bylaw that was passed in 1982 which allowed stores to open from 12 noon to 6 o'clock, did that work satisfactorily—that anybody could open who wanted to in the city of Windsor?

Mr Winograd: I think at that point it opened with just the designated area of downtown. It did not open across the whole city.

Mr McLean: But all retail stores could open.

Mr Winograd: All retail stores within the designated tourist district had the right to choose whether they wanted to be open or closed.

Mr McLean: So that bylaw from 12 to 6 worked satisfactorily?

Mr Winograd: Absolutely.

Mr Carr: One of the concerns that has been voiced, as you know, is that the tourism exemption will allow municipalities to decide. We heard earlier—I think the chap from the labour council said they are big enough to drive a Mack truck through them—and one of the things that has been proposed by some of the groups is to change the tourism exemptions to make them a little more difficult to adhere to. Right now they are pretty broad and everybody admits that. If the government was to change the criteria and make them tougher, what would it be doing to your particular business? I was thinking now of the tourism aspect of it.

Mr Grando: Clearly, since our organization represents not the city of Windsor but also the county of Essex and indeed even Pelee Island, our position is to let the forces of supply and demand dictate hours. If some of them want to open on a Wednesday or close on a Thursday or open on a Sunday, they should be allowed to do so. It is up to the individual proprietor and the laws of supply and demand to dictate how one conducts one's business with respect to that.

Mr Carr: So if the tourism exemptions were to change and make it more difficult to open, that would be something that would hurt you?

Mr Grando: Yes. That would have a very negative impact on what we are attempting to do. I mean, we have to be able to play on a level playing field. We need the competitive advantage that we are not enjoying presently.

Mr Fletcher: Just a few comments and maybe a few questions. One is, as far as the hotel industry is concerned, I know people are hired with the expectation they are going to be working seven days a week, as you said, and that is fine. People know that. As far as the employment standards part of this bill, it is for retail workers not for hotels or anything else. Whatever Mr Sorbara was getting at as far as your work is concerned in the hotel sector—they are not covered by this anyway, so I just add that piece of clarification.

As far as what is going on in Windsor, if the province which has just finished raising taxes—and a lot of people do not like them. I know I do not—but if we were to lower taxes on gasoline, cigarettes and alcohol, would that do more to draw people to the province, to this area, than opening on Sunday? Any one of you can answer that.

Mr Docherty: I do not think so. As Ralph said earlier, given a level playing field we will compete with the disadvantages that we currently have to carry in terms of higher taxes. What we need is the opportunity to be able to accommodate that customer and not shut him out and have him come into the city and see it shut down. When you say, "work seven days a week," I just want to make sure we understand. Hotel people work five days a week, the same as everybody else, the same as policemen, firemen, etc. They have two other days in the week off and they do not work seven days a week.

Mr Fletcher: That is the nature of the job and they understood that when they were hired.

Mr Docherty: The important thing for this community is to be able to compete with our friends to the south of us in the United States. They are open all the time. They have the opportunity of serving people. And people want service today. If you are not open they will go some place else. We think very often the opportunity of being open will enable some of that business to stay here and then it is up to us all to be competitive.

Mr Grando: I dare say if you combine wide-open Sunday shopping and you indeed incorporate those tax reductions that you just outlined, you will have a travel surplus instead of a continuous travel deficit that this country and indeed this province unfortunately enjoy.

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Mr Fletcher: Some of the problem, as you said, is caused by GST, free trade, the high dollar and one of the things that really—I am not jumping on you, but the business community in this country has supported the Conservative government in Canada that has been bringing in these policies. They have been doing it at the insistence of the business community.

Mr Sorbara: On a point of order: This line of questioning is entirely out of line—

Mr Fletcher: Will you give it a break, Greg?

Mr Sorbara: —accusing witnesses—

Mr Fletcher: I just said I am not jumping on them.

The Chair: No, Mr Fletcher did not accuse the witness of—

Mr Fletcher: Why do you not listen before you start jumping in?

The Chair: Mr Fletcher, you may proceed.

Mr Fletcher: What I am saying is that they have continually propped up this government and yet the policies they are doing and the policies that we are doing are hindering more and more what the business community is trying to do.

How can we strike a balance when both levels of government seem to be operating in different directions? That

is one of the hardest things to do. Where does the business community get into this? We have heard the chambers of commerce say they do not want any part of this and yet you are from the business community; you probably belonged to some chamber of commerce at some point, or some of you do—maybe not all of you. Where do you come into this? Where do you fit in?

Mr Docherty: I really understand what you said a moment ago. We are not downplaying the fact that the GST, taxes, and some of the implementations of prior governments have certainly not been in the best interest of business, but I would prefer not to look back but to look ahead. Do not make the same mistakes some of them made. They made mistakes and anybody who does anything will make mistakes. The only people who do not make mistakes are people who do nothing.

Now, it is terribly important that you do not compound what others have done before you. Try to get government out of our business, if you can, and minimize its impact on our community and we will be a lot better off. We must find a way to operate, no matter what, and we must find a way to turn a difficulty into a strength. We will in this community because this community has a proven track record in terms of suffering disadvantages of all kinds and rising up. So just do not get government any more into it than it is already. Back off.

Mr Fletcher: I hope you are sending that message somewhere else also.

Mr Docherty: I am saying it to all governments. I am not segregating one or another. I am saying that the others have made mistakes when government interfered in private enterprise, but please do not compound it. That is what we are saying to you, I think.

Mr Racovitis: Can I make a comment on that? Would that be permissible?

The Chair: Please identify yourself.

Mr Racovitis: My name is Tom Racovitis. I am representing the restaurant and food service industry in this area. Our family has been in the industry here for 50 years. The point of whether there are government regulations and taxes and so on is not, "Well, we have got a major problem here." Where we have got a major problem: we have competition directly a mile from us. They have a lot of advantages over the local business economy by way of cost of products, variety of products offered and so on. We are being further hampered in our ability to offer a competitive alternative.

The people come over for a variety of reasons. The restaurant industry, as most people know, is the largest employment industry in North America. It is by far the largest employment industry in Canada. Now, our industry traditionally has accepted to work seven days a week and expects it.

We talked about quality of life, and I take exception to that because the quality of life in the restaurant industry—we have put a lot of people through school; there have been a lot of university students who have been employed in our industry. When there is seven-day operation our business is no different from somebody else's.

The difference is, somehow we have this mystical idea that a Saturday or Sunday is something special over a Monday or a Tuesday. But there are a lot of people out there who prefer to work part-time, work a couple of days a week. It does not take money out of somebody else's pocket. What it does is, it helps with a lot of expenses, of kids going to school and so on, and allows for the augmentation of people's income. When you say, "no," you are removing their freedom of choice as well, and I think, overall, there are a lot of restaurants that are not open on Sunday, and they are allowed to.

Sheer economy will dictate who stays open and who stays closed. We are not some kind of tyrants with whips and guns and stuff like this, running around. You have a labour standards act that is very, very emphatic, that totally protects that type of thing, and I think to assume anything else, I do not think businesses would be in business much longer if they tried to contravene that in this day and age.

The Chair: Thank you, gentlemen, for a very interesting presentation, if staggered.

Mr Mills: Does George get any of his time for questions?

The Chair: We have unfortunately run out of time. Mr Dadamo, I apologize.

Mr Lessard: I would like to see whether there is consent from the other committee members to permit Mr Dadamo to ask his question. It is his riding. It does not hurt to ask.

The Chair: With the consent of the other members, Mr Dadamo.

Mr Dadamo: Thank you, Mr Chair, very much. This hotel, of course, is in my riding that I represent at Queen's Park. Thanks for your presentation, Mr Grando, Mr Racovitis and Mr Winograd. I have a couple of very basic questions that I am wanting to ask, only because the media in Toronto seem to ask me from time to time and I know the response that I give, so I am sort of looking for a response from you to this question.

I am concerned about the numbers. We all work in numbers. I came from an industry where we worked in numbers all the time, so I am very concerned about demographics, etc. But do the numbers come back to the convention and tourist bureau that perhaps prove that malls, the downtown area being open on Sundays makes money, makes money for you, will make money for establishments once you take into account that you have the salaries to pay, you have overhead to pay, you have middle people to pay, etc? Is it worthwhile to be open? Are the numbers coming back to you, in other words, proving that you are making money on Sundays?

Mr Grando: Do you want to address that to the private enterprise?

Mr Dadamo: I have heard from Mr Winograd. What I would like to do is ask you, Sergio.

Mr Grando: I cannot speak for every individual establishment, if they are profitable or not profitable on a Sunday, but as Bill mentioned, in this business we do marketing and we have to market activities. We have to market products. If we give people activities when we define our destination, it gives us a greater opportunity to bring those people, whether they are individual visitors, whether they are motor coach operators with a busload of people or whether they are convention planners looking for a future site for their particular convention, we need to show them the wealth of activity that exists here—as Ralph just mentioned over my shoulder, to presell them. We have to tell them that we are vigorous, we are vibrant and we are competitive. If they do not see that, we are not playing on a level playing field. We do not have that advantage. That is my point.

Mr Dadamo: Are we concerned about luring the American people over to our side of the border on Sunday for that disposable income that they may have? What I am concerned about is, if you have someone who works at the Chrysler Corp, has a couple of children, there is a family of four. For the sake of argument, they may have \$100 at the end of the week to do anything frivolous they may want to do. Are we concerned about taking that \$100 and having them spend it here? I am concerned about their taking that \$100 and going stateside.

Mr Grando: Let me just answer the one part of it. Our job is to bring new dollars into the community, not to recycle existing dollars, so our job is to bring visitors from points beyond our boundary of Windsor, Essex county, bring them into the community and have them circulate their dollars. We are very much in the American market from a marketing and sales standpoint.

Mr Dadamo: Okay.

Mr Docherty: Mr Dadamo, one quick answer to you too, it is very important for us to understand. The overhead of plant, property taxes, services, costs are on a seven-day basis. There is no holiday from them. If in fact a person or a business can open a store for an extra day, he does not have to do a gangbuster's lot of business in order for it to help defer that expense additionally. We are looking at bringing tourism in here from Ontario as well, and when we bring people in from Toronto, Kitchener, Ottawa, North Bay, whatever, they will spend Canadian dollars here; and if we are not open, part of the adventure of coming to our community will be to head north of the border and we do not want that happening. If we are open, at least they will think twice about it and that is very important to us on a local basis, as well.

Mr Dadamo: We are waiting for the sportsplex too, by the way.

The Chair: Thank you, Mr Dadamo. We will recess until 1:30, with the Ottawa Street Business Improvement Area.

The committee recessed at 1220.

AFTERNOON SITTING

The committee resumed at 1336.

OTTAWA STREET BUSINESS
IMPROVEMENT AREA

The Chair: We have, I believe, a representative from the Ottawa Street Business Improvement Area, Mr Allan Orman. I believe you were here for the last presentation this morning. Please disregard those proceedings; they were totally disorderly. Basically we have about half an hour. If you could divide that, your presentation should occur in the first half and I am sure the committee members will have many questions for you. Please proceed when you are ready.

Mr Orman: Thank you. First of all, I would like to extend an apology to the committee. I was scheduled to be here at 10:30 this morning and somehow time got away from me. By the time I came, our slot was taken. So please accept my apology, and we welcome you to the city of Windsor.

Ladies and gentlemen, groups before me have sat and read a whole presentation, which I have right here, but I think rather than do that, I would just like to talk to you a little bit and tell you where we are coming from and whom we represent.

My name is Allan Orman. I am a working partner of Freeds of Windsor, which is the anchor store, at this particular stage, of a business community in the heart of Windsor called Ottawa Street, a business community that has been there for a number of years. Ottawa Street represents 60-odd businesses and professional situations. Of course, our store is situated right in the middle of this particular street, and, I might add, has enjoyed great successes over the years—happily to the extent that we, if I may boast a little bit, are now considered one of the largest men's retailers, if not the largest, in the Dominion of Canada. That could be challenged of late, but we have not heard the challenge and it is still in our advertising, so take it for what it is.

Just to give you a little bit of background, our store represents 45 employees, expanding to about 75 in the heart of the Christmas season, so we are a fairly substantial store. Let me start off by saying that the reason you are here is that our store and our street, virtually unanimously, are really not in favour of Sunday shopping. We would prefer to remain closed—as a matter of fact, we would vote, if need be, for just that—and prefer to go along on a six-day week, with night shopping of course being a part of that availability. We feel the job of retailing can be done in those hours. It also, I might add, would be very, very well received by not only the employees of Ottawa Street, and more specifically our store, but I would say probably the employees of every single retail establishment in the city of Windsor.

I heard the Downtown Business Association of Windsor's presentation. I understand some of their problems and I do recognize them. But on the other hand, we have proven over the years that business can be done in the

hours that have presently been put upon us. Freeds as an operation, for example, and Ottawa Street more specifically, have not opened up every single night, Monday through Saturday, which is available, and yet operations like ourselves have not only survived but have expanded and grown.

To those who think Sunday shopping is the answer to cross-border shopping, that is absolutely ridiculous. One has absolutely nothing to do with the other. Sunday shopping is an accommodation to stretch six days of business out to seven, and to those who are really thinking in terms of the Americans coming to us at the present time to do their shopping, I think they are being a little bit naïve. It is very, very difficult for an American to justify shopping in Windsor, Ontario, at the present time. Not only is it price competitiveness, but the excessive taxes, ladies and gentlemen, are killing us as far as trade goes with the United States. They see a 15% tack-on on virtually everything they are doing here, by the time you add in the provincial tax and the sales tax. Even although you tell them it is refundable, it is discouraging. We see the American flow that used to be, in our operation, 15% of our business, is now down to a mere fraction.

Our biggest concern, of course, is trying to maintain the Windsor clientele, if you will. We have done it. We have done it with good, aggressive advertising. We have done it with price competitiveness, and we have done it with a very, very high service level that my partner, Gerald Freed, and myself continually pound into our offspring, who are presently running the operation on a day-to-day basis: my son and my nephew.

Mr Dadamo: Doing a good job, by the way.

Mr Orman: Thank you. I want you to know that we have challenged the community to that service level, and we have challenged the community to our price levels as well. We have succeeded in the last few months, although it has been tough, to do a respectable amount of business—not as much as we would like, but a respectable amount of business—by being just that aggressive.

We cannot do it alone. We need the government's help. Forgive me, but I think the government would perhaps be better able to recognize the problems of Windsor, Ontario, or, more generally, Ontario itself, if there were some retail thinking that was an equal part of these committees that we have sat on, not only from a provincial level but from a local, municipal level as well.

Retailing is tough here. Our governments recognize that they have expenses they have to cover, so immediately upon getting into office, they put taxes on items that are just forcing the people, as was said before—and I do not mean to be repetitive—to go over to Detroit for those handful of items. While they are there, they figure that if gasoline and beer and cigarettes are that much less, everything else must be the same way, even although it is not, and we have proved in our particular business that it is not. It is hard to get that message across to the people of Windsor. They figure that everything is cheaper there.

Something has to be done from a government level to ease up, to let it be more competitive, rather than to stifle us with impressions and illusions and actualities that are just absolutely murdering retail business in the city of Windsor.

I am surprised there is a gas station open in this city, and yet there are a lot of gas stations around. I just came back from a trip; I was away for a week in the southern United States. The price of gasoline down there is \$1.08 per gallon. When I left here, it was 52.9 cents per gallon. It is now being posted at 59.9.

Mr Carr: A litre.

Mr Orman: A litre, sorry. I wish it were a gallon. Excuse me.

Their prices are going down and our prices are going up. What do you expect the people of Windsor to do? They have to go and look to our neighbours in order to fulfil and stretch their budgets. We need some help from you. There is no question in my mind.

One more statement, and then I am ready to answer any questions that I can. As far as the designated area for the downtown business association goes, let me say that, in protection of the Ottawa Street business association and virtually every other corner of this city, we feel this way: If the city closes because of a law that is struck down, we will support it with a full heart. But we do not want to be restricted by virtue of certain areas being open where we would lose our competitive edge. We want to have the choice.

Now, that does not mean we are going to open. By the way, the downtown business association has proven that even though it had the edge, even at the time when the dollar was at 72 cents, only a handful of people opened up in downtown Windsor. The rest of them did not want to. At least they had the choice.

Whatever the decision of the government is, we feel it should be a choice across the board. If you close it, we are in complete support; we would love you to do that. But if it does open, I think everyone should have the opportunity to say, "Yes, yes," or "No, no."

Mr Daigeler: Thank you for the presentation. Most interesting, although I am still not quite clear where you are coming from. What I think you were asking for just now, you will certainly not get from this legislation. As you know, this legislation re-establishes the tourism exemptions. According to that project, certain areas of Windsor, I guess, could be open and others would have to be closed. I presume Ottawa Street would have to be closed, and perhaps downtown—certain areas of downtown would be open depending which way the Windsor city council decides.

In view of the shortcomings of this legislation in line with your own thinking, do you support the law as it is at the present time, which leaves a decision to be open or not up to the municipal council? So if Windsor wants to stay closed—and you seem to say the majority does want to stay closed—that is fine. If in other areas—we were in Collingwood, for example—they want to be open, or in Thunder Bay, that would be fine as well. Would that municipal option be your preferred approach?

Mr Orman: Well, sir, let me just say this to you. The approach was kind of summed up in my last statement. I

think it is unfair that a city that is struggling as Windsor is struggling—it is well recognized—across a border, and in the process of trying to keep the Windsor population interested in your own establishment you are to be curtailed by our restrictions, which is what is being proposed—if you just take small sections of the city and open them up and you do not allow the rest of the city to open up; after all, we are all sitting on this border—I do not think it is totally fair that a section of the city should be allowed to stay open—their choice, by the way; not everyone opens, as I pointed out, and as a matter of fact very few did—and not allow places like Ottawa Street. After all, we have a lot of things to give to a tourist. We have the biggest men's store in the city. We also have introduced ladies' wear. We have expanded our horizons.

1350

Mr Daigeler: So you have three options, then, and you would prefer first of all that the province would say everybody be closed.

Mr Orman: Every retail establishment be closed.

Mr Daigeler: That would be your preferred option.

Mr Orman: Yes, sir, that is right.

Mr Daigeler: The second option, which is presently in place and which was instituted by the Liberals, was to let each municipality or region decide to either stay open or not.

Your third, and I guess the least preferred, option is the one being proposed here which gives an exemption only to certain tourism areas. Is that correct?

Mr Orman: That is correct, sir.

Mr Daigeler: May I just ask one final question? Being from the Ottawa area myself, I am interested of course where this Ottawa Street is in Windsor in relationship to the downtown core.

Mr Orman: It is in the centre of the city and, by the way, a very unusual business community because it has been there for a number of years and really does not have a complete east-west artery. Ottawa Street is bordered by Walker Road, and it dead-ends there, and Howard Avenue on the west side, which dead-ends there, and yet the street has survived for 60 or 70 years. It has been a long-established retailing area in the city of Windsor.

Mr Poirier: Just off the downtown map, right?

Mr Orman: It is not on the downtown map. Of course, that is because the downtown merchants did not want to put us there.

The Chair: I am supposed to maintain pleasurable circumstances so that witnesses are not harassed and members are not harassing each other. But now we have witnesses harassing each other.

Mr Orman: I do not think we are. I think we are all on the same level. All we want is, whatever choices are made, that in the true way of democracy we are all available for those choices.

The Chair: Indeed. I am just jesting, Mr Orman. Mr Carr.

Mr Carr: Thank you very much for a fine presentation. I think you have expressed it very clearly, the difficult

task that everybody has; it certainly is not a simple one. I suspect that when the fight goes to municipal council the people in the Windsor area are going to have a lot of sleepless nights over it. I think you are right.

What a lot of people are saying, or I hear a lot of people saying, is regardless of what we do let's just be uniform in it, even the people who are saying, "Even if I pick one side and I lose at least it will be something that will be right across the province." The problem we have with those who, for example, like yourself want to remain closed, is they see what happens. As you know, the word has been that it will snowball, that once one area opens—not even just in a particular area, one section of a community—but when a whole community of, say, Windsor opens, it will put pressure on the other people as well.

You seem to be saying what a lot of people are saying, that if everybody is closed, forgetting about the tourist aspect and the US portion of it, at least we will be able to compete, but that if we open in certain parts of the city and not other parts, that will create problems.

Do you also see as a result the square footage creating those same types of problems because, as you know, based on the square footage, you might open a particular area but those over the 7,500 will not be open as well. Do you see that as a big problem? Are you looking more at the businesses of the same size or do you see that creating a problem with the square footage as well?

Mr Carr: Let me put it to you this way. The square footages are something that is easy to play with, the roping off and all the things that have gone on here for a few years already in order to qualify and not to qualify and so on and so forth. I think it is really a game that circumvents the law and you can do whatever the heck you want.

It is really very simple—give everybody an equal playing field. We are talking about the governments doing the same thing by not making us so out of proportion to State-side, if you will. The same thing applies with retailing in the city of Windsor.

Bill Docherty was very good in his presentation about tourists coming into this community and I think we need them desperately. But let me say this to you, why should not that tourist, for which we would provide a bus, have the availability of Windsor's largest men's store? Why is it being segregated to some small shops in the city's downtown core? In fact, if you are going to open them up, why can they not go to us? Why can they not go to Devonshire Mall? We do not want to see the city open up; our preference is to close it down because everybody will do the same amount of business, I am thoroughly convinced. It has nothing to do with doing more business, it is strictly stretching out your expenses.

Mr Carr: As you know, one of the problems is that people are saying that because it is so open-ended you are going to have a lot of people going to the courts and saying it is not fair, whether it is square footage, whether it is that you are closed and another part is open and so on. You seem to be saying, however, let the free market decide, where you say whoever wants to open can, those that do not will not. That does not work either because the ones

that are open will be gaining a little bit of a foot up on the other people. That cannot work as well. Is there any way you see that working, or is there anything that can be done to ensure that? For example, in Peterborough we heard some people say that even if they are allowed to open, a large percentage of them will not open. You seem to be saying that would not work.

Mr Orman: We will do everything we can as an individual operator to stay closed on Sunday. We have a history. The history suggests that we are open two nights a week, Thursday and Friday nights. Devonshire Mall by and large is open Monday, Tuesday, Wednesday nights that we are not open in competition and we have maintained our growth pattern on that particular basis. But we do not want to be handcuffed that if that became an issue we could not compete, that we cannot voluntarily just say, "Okay, let's start opening." The same thing applies to Sunday. Give us the equal playing field. That is all we are saying.

Mr Carr: Thank you. Good luck.

Mr Lessard: Thank you very much for your presentation, Mr Orman. Not only is your store in the centre of Windsor, it is in the heart of the Windsor-Walkerville riding and we are happy to have that store there.

You mentioned in your presentation that right now there are no US shoppers coming over here to shop and certainly that is something we had enjoyed in the past and I hope that is going to be present again in the future. We are hearing a lot of people say, "We have to stay open in order to compete for American shoppers," and sometimes we might get the feeling that really those are people who are asking us to take desperate measures in what they perceive as desperate times for the retail sector.

I am wondering whether you have ever considered the costs and the benefits you might incur if you did have to open up on Sundays, whether you would think it would be to your advantage if you would have to open.

Mr Orman: We have a certain group of good news and bad news. The good news is that over the period of—since 1929, I guess it is 62 years now in business—we were fortunate enough at one stage or another to buy our premises, so we do not pay rent. Once you do not pay rent you have a very key advantage as far as maintaining your expenses. But the cost of labour is very expensive and the cost of advertising is very expensive and the number of hours you are open is somewhat limited. From 12 to 5 or 12 to 4 seems to be the pattern that has taken place, not only in the short time Sunday shopping has been available, but that has already been established by the Detroit side as well. It is a five-hour day.

We did stay open, because we felt we were losing our competitive edge, in the month of March this year. I want you to know that if we had our druthers, even after that experience, and we did do some business on Sunday, we would much prefer to be closed. But if our competition is not closed and we are put at a competitive disadvantage, we cannot do it. I do not care what the costs are to open up that store, you have got to go after it because you just cannot afford to lose the edge. If you want to know our druthers, it is the bottom line, it is the whole thing: close

up Sundays, perfect, great. It is a common pause day that people have been used to from time immemorial and even though I am not a Protestant person, I am Jewish and it is not my holy day, I recognize that it is the holy day of the majority of the people here. Let them have those moments and if you are good you can make those six days that are left in the week and the number of nights that you want to stay open so good that they will come to you.

Mr Lessard: And you have been operating your business with the downtown tourist exemption in place since 1982.

1400

Mr Orman: No question about it, and have not seen fit to make our voice heard to compete with them. But we also recognize what has happened down there and you have to look at its history. Only a handful of people have taken advantage of that downtown exemption. That is the unfortunate part. I am not talking about restaurants, I am talking about retail now, please. This is only retail that I am referring to.

The Chair: Thank you very much, Mr Orman. A very interesting presentation.

RUDOLPH FLACHBARTH

The Chair: Our next presenter is Rev Rudolph Flachbarth. Rev Flachbarth, if you would please have a seat. You have been observing something of our proceedings.

Mr Flachbarth: Yes.

The Chair: You have a quarter of an hour, 15 minutes. Please divide that time between your presentation and, if you could, some time for the committee members here to ask you a few questions. Please go ahead.

Mr Flachbarth: I am definitely for the idea of establishing a weekly day of rest or pause day for our working people. They need one day in the week to relax physically and mentally from hard labour during the week. They have to get a chance to spend one day with their family, wife and children without having to fear that they will be fired for not showing up for work. For the mental wellbeing of the children, it is necessary that the children have their working mother and father around to share with them their interests.

By tradition, Sunday is the day of rest in this country of Canada. This was so since many decades. Those minorities who came to Canada much later in the history of the land knew that Sunday was the long-established day of rest. They are free to keep any day of the week as their weekly holiday, but they have no right to deprive the majority of the population of the traditional weekly holiday, which is Sunday. To demand that Sunday be a working day as any other day, especially stores and shops, is a violation of the rights and privileges of the majority of the Canadian population.

The store and shop owners in Canada are mistaken if they presume that the customers, especially in border towns like Windsor, will shop at their stores if they will keep them open on Sundays. All customers will continue to drive to the United States because the prices over there

are much lower than here in Canada. Just let us look at the gasoline prices. Here in Canada we have to pay 55 cents for a litre of gasoline. The price in the United States is just 32 cents. This makes a difference of 23 cents. When a car owner drives over to the States and buys 25 litres of gasoline he saves \$5.75. Even if he takes into consideration the exchange rate he still saves money.

The same goes for cigarettes. In the price for one pack of cigarettes is included the provincial as well as federal cigarette tax, yet when one buys a pack of cigarettes here in Canada he or she has to pay on top the provincial sales tax as well as the GST, so they have to pay taxes twice. They actually pay taxes on taxes. This they do not have in the United States. The customer will continue to drive to the United States because there they will save money, so the opening of stores on Sunday will not keep the customers in Canada.

To keep them here and to make them shop here, two things have to be accomplished: the prices of the merchandise have to be reduced; second, the taxes, provincial and federal, have to be lowered. You cannot keep customers in Canada and make them shop here if the price of everything they purchase is much higher, twice as much as it is in the United States. This is a riddle: How can the United States produce and sell everything cheaper than Canada?

One way or the other, the opening of stores on Sundays and the opening of any working place will not solve the problems. We must look for the roots of the issue, which are: (1) high merchandise prices, which are caused by high wages; and (2) high sales taxes and the horrendous GST, which can be lowered only by reducing the high spending trend of the governments, especially the federal government.

But no matter from what angle we look at this problem, for the sake of the population, a weekly day of rest in any branch is a must. Thank you.

Mr Daigeler: Thank you, Father, for sharing your thoughts on what I consider a very difficult problem, because I do not think too many people will argue that we should not have at least one day of rest. I think that is kind of a given. The only problem that I have, and my colleagues, I guess, is that many people are saying, "Let us decide by ourselves which day I want to take that rest," and that experience has shown that even if they have that choice to decide by themselves which day it is, people will tend to make it Sunday and there is no need for the state or for the government to interfere in this. That is I think the dilemma that I face. We have had many people come before us during these hearings to say: "Let us decide. Who are you to tell us that we have to stay closed on Sunday?" What would be your answer to that?

Mr Flachbarth: If you recognize Sunday is a weekly holiday, then have the stores kept closed. You must be able to issue the law which simply states, "The stores have to be closed on Sundays."

Mr Daigeler: So you would be against this idea of a tourism exemption as well?

Mr Flachbarth: Absolutely.

Mr Daigeler: What about the other sectors of the economy, like manufacturing and industry and so on?

Many of the industries, at least on a rotating basis, are working on Sundays. What about these sectors? Do you have any thoughts on that?

Mr Flachbarth: If they are on a rotating basis, they should be left, because then they have another day in the week off. The factories cannot change rotating. They have to continue. So in that case I would say it could be stated that if they are on a rotating basis, let them keep it.

Mr Carr: Thank you very much, Reverend. I take it that the people you are concerned about are the people who would be working on Sunday, not the people who would be partaking in the shopping. It is the workers who have to work who are the big concern. Is that right?

Mr Flachbarth: What is your question, basically?

Mr Carr: With having the stores closed, what you are concerned about is the people working in those stores, not the people who would be shopping. Presumably it is okay to shop if you wanted to. It is the people who have to work whom you are concerned about, is it?

Mr Flachbarth: If the workers in the shop are working for six days, they should have one day off, be it Monday or be it Tuesday, while usually it is now Sunday. It is a tradition in Canada so please respect the tradition of the Canadian population.

1410

Mr Carr: With this law, as you know, people would be able to refuse work on Sunday, but I guess what you are saying is that that does not work, that people would somehow be pressured to work. Is that your problem with the law, because, as you know, they are going to have it so that if somebody says, "Because of religious grounds, I don't want to work on Sunday," they do not have to. Do you see that not working?

Mr Flachbarth: I take my profession. I always was fully employed on a Sunday, but Monday was my day off and I was looking anxiously for this day off on Monday. I could sleep as long as I wanted, I could do what I wanted. I could go for a walk. I could read or I could write something privately. I was not forced to be in my office. So the knowledge that I have a day off is convenient for me, and since Sunday is a traditional day of rest, let's keep it that way and respect the tradition of the country.

The Chair: Mr Dadamo.

Mr Mills: Was I not first? What is going on here?

The Chair: Mr Mills.

Mr Mills: Thank you, Reverend, for coming here. I appreciate what you had to say. You touched on a comment that I want to pick up about lowering the taxes. I think it only fair to say that we should examine the social programs that we have in Canada vis-à-vis when we go across the river. So I would say to you, sir, perhaps, do you think that in Windsor we should bring about a social awareness that you shop in Canada, and we have got health care unlimited, and if you go across to Detroit there, you are really taking away from social programs that I think are so important to Canadians. How would you feel about that?

Mr Flachbarth: Yes.

Mr Mills: Thank you.

Mr Carr: He did not answer.

Mr Mills: Yes, he said yes, he agrees.

Mr Lessard: Is the time up?

The Chair: The time is not up, but we could move on.

Mr Flachbarth: More questions?

The Chair: Mr Flachbarth, you agree with Mr Mills, as I understand it.

Mr Flachbarth: Yes.

Mr Mills: A social awareness.

The Chair: Would you allow Mr Dadamo to ask a question now?

Mr Dadamo: Father, if I do not come to you, you come to me. This is fine on a Monday; this is nice. I just have a very general type of question. It is very simple.

Interjection: It is his day off.

Mr Dadamo: It is his day off, yes.

Do parishioners express their concerns to you, one on one, as to how they feel about that seventh day and whether they would like stores open or closed?

Mr Flachbarth: Yes.

Mr Dadamo: Do you hear from a fair amount of people?

Mr Flachbarth: Yes. I belong now to the First Lutheran Church in Windsor, and the vast majority authorized me to state that they want to have Sunday as a complete day of rest.

Mr Dadamo: Are there a lot of auto workers who come to you, and we know well that Chrysler works six days a week in this city, and has for a long time, saying that they relish the thought of having that seventh day off?

Mr Flachbarth: They work on a rotating basis. They get anyway one day of rest, be it a Monday, be it a Tuesday, as the shift changes. So they get it. But usually they want to have the Sunday established as a legal holiday so the majority of the people who work for six days a week can have a day of rest and some time with their families. That is the main concern. They take it if the husband has to go to the factory to do his shift. There is a regulation. They say the factory cannot change its schedule. But in general they want to have the Sunday established as a legal holiday for everybody, no exceptions.

Mr Dadamo: That is the way it has been and that is the way we should leave it then?

Mr Flachbarth: Yes.

Mr Dadamo: It has been that way for many, many years.

Mr Flachbarth: Yes.

Mr Dadamo: So leave it alone. All right, thank you.

The Chair: Thank you very much, Rev Flachbarth, a very helpful presentation.

DORIS MCKNIGHT
WILMA HANNON

The Chair: We now have a presentation from Doris McKnight and Wilma Hannon. Ladies, would you please have a seat? We have about a quarter of an hour. Please

divide that time between your presentation, and if you would, please leave some time for the committee members to ask questions. Oh, and could you identify yourself into the mike for the purposes of our recorder.

Mrs McKnight: Members of the committee, good afternoon. My name is Doris McKnight.

Mrs Hannon: My name is Wilma Hannon. We come before this committee as two individuals who are deeply concerned about preserving the quality of life for Canadian workers and their families.

Mrs McKnight: We do realize that there are some people who wish to have wide-open Sunday shopping as a matter of personal convenience, without realizing that this convenience is at the expense of the majority of retail workers and their families.

Even though there are good intentions by this government to protect the retail workers who choose not to work on Sundays, good intentions are all they are. It has not taken into account that there would be gentle persuasion applied with it. Even though employees have the theoretical choice of whether to work on Sundays or not, the reality is that you work side by side with your co-workers. You are part of a management team. If you are not a team player, the other managers have to pull up the slack and work your Sundays to cover your shift. This does not create a very healthy atmosphere at work.

We do not feel that anyone should feel pressured to do something that they do not want or believe in, especially when we are supposed to have choices. I personally chose not to work Sundays when wide-open Sunday shopping took place July 8 of last year. I was looked down upon by my peers because I did not do my fair share, and how was I supposed to set an example for my staff when I was refusing to work myself? I finally buckled under and started working on the first Sunday in December because I was torn apart.

Mrs Hannon: We do realize that many people believe that wide-open Sunday shopping will create increased employment. In reality, with wide-open Sunday shopping, competition eventually forces retailers to open on Sundays in order to preserve their market share. Consumers only have so much disposable income to spend. Sales are spread over seven days instead of six days, all at the expense of the employees and their families. Since competition forces retailers to open Sundays, retailers are forced to staff the Sundays. Without any increase in sales, this forces the retailers to spread the payroll over seven days instead of six days, without any increase in employee earnings.

Mrs McKnight: We do realize that there are some businesses who wish to open on Sundays and holidays. We also realize that there are retail businesses opposed to wide-open Sunday shopping because they know that competition will eventually lead to more extended hours to try and gain more market share until everyone is open 24 hours a day, seven days a week. What kind of quality of life will this pose for the retail worker?

We realize that there are certain emergency services and businesses that must remain open on Sundays and holidays in order that the needs of the community as a

whole may be met. We wish to publicly thank those people who, for their own reasons, have chosen a job or career that limits their opportunity to enjoy the legislated common pause day.

When we chose the retailing field, we did not choose Sundays and holidays as part of our five-day work week. We in retail already work evenings and Saturdays. We do not want to be taken away from our families on Sundays and holidays. With our children in school and our husbands at work all week, why would we want two days off during the week without them?

Mrs Hannon: Increased working days for the retail worker will eventually lead to increased demand for other services to rearrange their work schedules in order to accommodate these demands, for example, day care and public transportation, again affecting the quality of life not only for the retail workers and their families but eventually for the workers and families in these other services as well.

1420

Mrs McKnight: The issue does not end with Sunday shopping. What legislation will prevent other workers from being forced to work on Sundays, such as bankers, teachers, government employees who currently enjoy the common pause day? Before you know it, every worker will be setting their alarm clock around a seven-day work week. Sunday shopping will be the beginning of the end to a very special and cherished, and may we emphasize, Canadian lifestyle which many Canadian workers fought so hard for many years ago. By living so close to the American border, we can foresee our Canadian quality of life deteriorate and become more Americanized if a common pause day is not legislated. We are the envy of the American workers. Let us preserve what we have.

Mrs Hannon: As we reviewed Bill 115, the amendments anyway, and from what we have just recently experienced with our city council in Windsor, we feel that Bill 115 is extremely vague in its explanation of what constitutes a tourist-designated area. We are not lawyers, but we feel that the ambiguous description of tourist-designated area in the proposed legislation will lead the public to challenge the city councils. The legislation must be more specific so that no loopholes will be found.

In summary, we urge you to keep the following points in mind as you review Bill 115.

1. A common pause day must be legislated.
2. All statutory and civic holidays must be preserved without exception.
3. Tourist-designated areas must be more specifically defined.
4. Stiffer fines for businesses that open illegally. A \$2,000 fine will only allow businesses to defy the law; try \$10,000 or more.
5. Should businesses be allowed to open on Sundays under a tourist-designated area bylaw, the employees should be paid a premium for working on Sundays.
6. Sunday hours, under a tourist-designated area bylaw, must be stipulated in the bylaw.

We wish to sincerely thank the committee for giving us the opportunity to publicly voice our concerns.

Mr Poirier: On your page 3, in the middle of the page in the second paragraph, it says, "Before you know it, every worker will be setting their alarm clock around as-even-day work week." You are not implying that people will be working seven days a week around the clock? With rotation?

Mrs Hannon: With rotation, yes. With rotation you will still be eligible for two days off a week, but as we stipulated earlier, why would we want two days off during the week, even though they are together, when our husbands will be at work and our children in school? What kind of days off will that be for us?

Mr Poirier: Did you feel that in other retail areas other employees or management people felt the same pressure that you claim you felt?

Mrs Hannon: Absolutely.

Mr Poirier: So you feel that it was rather widespread?

Mrs Hannon: Yes.

Mr Poirier: Okay, thank you. I think Mr Daigeler has a question.

Mr Daigeler: Thank you very much for coming before us and sharing your viewpoints with us as individuals. You are saying, and many others are saying as well, that competition will eventually force others to open on Sundays as well even though they may not want to. I do not know the Detroit situation that well; you obviously know it a lot better than I do. Is that what happened over there? Are the stores, all of them, basically open over there, or is it just select ones? In other words, did that happen over there, that the competition forced everyone to open?

Mrs Hannon: They have been open on Sundays for a great number of years and it used to be that they were open basically from 12 till 5. I have now noticed that they are open from 11 till 6. Besides that, they were also closed on their Thanksgiving holidays. Last year was the first time that some of those stores decided to open. So now, basically, the only day of the year they are closed is Christmas Day. That is it.

Mr Daigeler: Does that apply to most stores?

Mrs Hannon: Pretty well, of retail store shopping.

Mr Daigeler: You are also mentioning in your brief that Canadian workers are looked upon with envy by the American workers.

Mrs Hannon: I have had several people—when I used to wait upon a couple of American shoppers—who work in the retail industry in the States, and they would say, "Oh yeah, that's right, you're closed on Sundays. Oh jeez, I wish we could have that."

Mr Daigeler: You see, I am asking this because we have had, at several stops, especially tourism operators, say that Americans who come and realize that we are closed on Sundays, say, "How could you be closed?" So, this seems to be sort of different from what you are saying now.

Mrs Hannon: But it is the people who work it, not necessarily the shopper. There are a lot of people who do not share our viewpoints, because for them it is a convenience to shop on Sunday, but it is the worker who has to

bear the brunt of it. I have worked a couple of Sundays and it really disrupts your family life.

Mr Carr: Thank you very much for your presentation. You seem to be agreeing with the government's position of having a common pause day. The problem we have is that most people who are opposed to Sunday shopping are saying this law will not do it, and you have already seen what is going to happen in Windsor. My question is this: What do you see happening across the province a year from now? Do you see a lot of municipalities having Sunday shopping? What do you envision?

Mrs Hannon: We would prefer to have everything closed, all the retail closed, but we are not oblivious to the fact that there are certain areas in this province that thrive off a tourist-designated area. You take some place up in the Muskokas, for example, there are cottagers on the weekend. You would be crazy not to open on Sundays. That is their livelihood. So we are not oblivious to the fact that there is a tourist-designated area. There should be something to designate that, but from what I have seen here in Windsor, here is the city of Windsor being designated as a tourist area. When was the last time you asked your children if they wanted to come to Windsor for a holiday? I am sure it happens all the time.

But what we are saying is that we realize there are areas that have to have a tourist-designated area because it is their livelihood. We are not talking about major department stores. We are talking about a little mom-and-pop shop that thrives off the tourist industry. In order to qualify as a tourist-designated area, the way we see it is, it is just going to be thrown right out. People will challenge it completely. There cannot be any loopholes in that tourist-designated area.

I do not know about the square footage. I honestly did not read the entire bill. I just read some of the amendments, but it used to be the 2,400 square feet—is that what it was? I do not know—as far as a store opening in a tourist-designated area. We had drug stores that would close off aisles so they could have this 2,400 square feet. I do not honestly know what the answer is. All I know is that the way it sits right now is that it can honestly be challenged, and if we have this tourist-designated area, once an area is designated as a tourist area, then you are going to have a domino effect. Some other area wants it. The downtown businesses want it here. Then Ottawa Street wants it, and then you are going to have the Riverside area that wants it, and it will just keep snowballing. Windsor eventually will be totally designated and then you have Essex, the town of Essex, and Amherstburg. Before you know it, you will have wide-open Sunday shopping.

Mr Carr: So your problem is really with the tourist exemption part that is too broad.

Mrs Hannon: Yes.

Mr Carr: The difficulty is when you try to go back and change it. It is very broad, and we have heard you can drive a Mack truck through it. The problem is, how do you get it so that you can incorporate the Muskokas that you mentioned, which should be a tourist area, without shutting the door to those people? That is the very difficult part because it is very broad now, and they leave it up to the

municipalities. If you try to narrow it, then it makes it very difficult for, say, Collingwood where we heard they want it because they need the tourism dollars. That is the big question when you take even one criteria out: Now what happens to that situation? Have you given any thought to how you would like to see the tourism exemption changes made? You say you need them not quite as broad, but have you given any thought to how you would like to see it worded?

Mrs Hannon: From what I have read in the paper when this was first introduced in June, there were some things in there about an amusement or an entertainment area. I think each of those types of words should be specifically defined as to what constitutes an entertainment area or an amusement area or—I forget some of the other words. I do not recall them offhand. All I know is, as soon as I read it, I just said, "This is a joke." Who is to say that going to Devonshire Mall is not entertainment?

Mr Carr: Okay. Thank you. Good luck.

Mr Fletcher: Thank you for your presentation. It is really nice to hear you come out. I have heard from big business, little business and they are all over the board, but what I am hearing from you and from retail workers, from unions, is very consistent. You really do not want to work on a Sunday, that is what I am hearing, and I appreciate that. When I look at your six recommendations, I think they are excellent recommendations, and I can support all six.

1430

The one I do have a problem with is the one that Mr Carr alluded to, and that is that the tourist-designated areas must be more specifically defined. I have just been going over the old Hansards from 1988 and 1987 when the Liberal cabinet and their caucus were wrestling with this and were saying, "We cannot define a tourist area that won't suit the whole province." What we are trying to do is just that, and that is the most difficult part about it. When you said in response to Mr Carr that certain words such as "entertainment" should be specifically defined, even that comes down to interpretation again and again. This is a question, and this is not something that the government is thinking of or anything: What if we took that tourist exemption part and just threw it out?

Mrs Hannon: It is okay by me. You have my full support.

Mr Fletcher: Okay. That is great. Thanks a lot.

Mr Lessard: Actually, I am going to be very short because I do not have any questions. I just wanted to thank you for your excellent presentation. I think that you hit on most of the major points—

Mr Daigeler: Is he in your riding?

Mrs McKnight: He is in my riding.

Mrs Hannon: Thank you for sending him.

Mr Lessard: —and I thought that it was very well done. Thank you very much.

The Chair: Thank you very much, women.

BERNIE RYZ

The Chair: Our next presentation is from Mr Bernie Ryz. We have approximately a quarter of an hour. Please

divide that time between your presentation and hopefully allow some time for questions from the committee members if you could, and start when you are comfortable.

Mr Ryz: Thank you for affording me the opportunity to address this committee today so that I may express my personal views on this controversial Sunday shopping issue. As stated, my name is Bernie Ryz, and I am a management employee of Sears Canada Inc, located at Devonshire Mall here in Windsor.

Sears employs over 500 employees in the city of Windsor. Our employees have spoken out very clearly that they do not want Sunday shopping. They do, however, want to enjoy the same quality-of-life standards as the majority of the city of Windsor's citizens. As Windsor's largest general merchandise retailer we and our employees have a tremendous stake in the decisions that will be made by this council today. It is my intention over the next few minutes to focus on three main areas. First, I will provide you with our corporate stance on the Sunday shopping issue; second, I would like to cover my genuine concerns about Sunday and holiday shopping; and third, I wish to share with you some of our experiences where we have been forced to open on Sunday because of competitive pressures.

Sears's position: Sears Canada has consistently opposed wide-open Sunday shopping other than for essential goods and services and are strongly in favour of a common pause day. We support and promote the strict enforcement of the Retail Business Holidays Act by both the provincial and municipal governments. I have many concerns regarding any proposal to legislate any form of Sunday shopping.

Sunday shopping means Sunday work, which negatively affects the quality of life of those who would otherwise spend this time with their friends and family. Granted, some people have chosen to work in essential services or other service industries that do require them to work on Sundays and holidays. However, most of the population of Windsor, including the Sears employees, chose a career that did not require them to work on Sundays, and we feel that it is the social responsibility of the government to legislate a pause day and enforce that legislation.

I believe that if Sunday shopping quickly becomes a reality again here in Windsor, which it is right now, it would quickly impact on other businesses in this community that supply goods and services to retailers. Requirements for additional day care, banking and delivery, just to name a few, will increase until it is conceivable that Sunday will become just like any other day of the week for everyone, and no one will have a common pause day at all.

The introduction of Sunday shopping does not increase the amount of disposable income to be spent in retail stores. There will be no economic gain but merely a shift in the balance of sale and work available by day. We have had firsthand experience of this here in Windsor from the period of last July 1990 to March 1991, and we experienced no gain in sales over the seven-day week, only a large increase in costs.

I also believe that if each municipality tries to gain the upper hand in attracting retail sales to its areas by declaring theirs a tourist area and opening on Sundays, all the surrounding municipalities will gradually be forced to

open as well. It is my hope that the knowledge we have derived from Sears' practical experience with Sunday opening will be of interest and assistance to this task force in your future deliberations.

Sears currently has 12 stores open on Sundays in western Canada, seven in Alberta, five in British Columbia. We have studied the performance of those stores individually, collectively, and against non-Sunday stores, in every conceivable statistical manner since first opening in November 1984.

While many results are mixed due to variable market factors, we can conclude that there is absolutely no evidence that opening Sundays has accomplished anything except to shift some of the sales from Saturday and Monday to Sunday. We can also conclude that Sunday openings have not increased our business. From an operating standpoint, we are confronted with additional payroll costs and reduced supervision during the balance of the week, as management hours are spread over seven days rather than six. Another reality is increased maintenance costs, specifically in cleaning and energy to cover lighting and air conditioning.

Our experience would indicate that wide-open Sunday shopping makes no economic sense. The same business is spread over more hours for all retailers at a higher cost which inevitably leads to either higher selling prices or reduced services.

I have several other concerns I would like to highlight before closing. The first is a concern that, should the city of Windsor be successful in gaining a tourist designation, it would only be a very brief time until the next adjacent community would have to open to compete with Windsor. Then what next? The next adjacent community, and then the next adjacent community, until you have the whole province open again.

The second is a concern that is voiced by many who support wide-open Sunday shopping. They say that if the city of Windsor does not allow wide-open Sunday shopping, all the shoppers will shop across the border in Detroit, and this will further fuel the cross-border shopping problem. This argument has absolutely no basis at all. The city of Windsor has had firsthand experience with wide-open Sunday shopping from July 1990 to March 1991. During this time frame, cross-border shopping had escalated faster than in any other period in its prior history.

Open Sunday shopping was certainly not the answer. Cross-border shopping is not only a Sunday issue. It happens every single day of the week, mostly on Saturdays, and should not be included in the argument supporting wide-open Sunday shopping.

In closing, we have nothing to gain by opening Sundays. Our employees have everything to lose if we are forced to open. I would like to stop at that point for a second and just say that the retail business is a matter of gaining market share or losing market share, and if you do not keep pace with your competitors and they are open and you are not, you lose market share and are forced to follow suit.

I ask this task force to recommend that the current legislation before the House be passed quickly and return

this community to the quality of life it has experienced in the past. I say pass the legislation that you currently have before the House quickly, then get on with some of the finer points that we require—and maybe this is something that can be debated in the House.

1440

There are some problems with tourist designation or definition of tourist designation that I think you have to work on and tighten up. I am not sure I know what the answer to that is. The size of business—somebody had mentioned 7,000 square feet. I did not see that in the proposal at all. Maybe it was there and I overlooked it. My experience in other provinces, 2,500 seemed to be the acceptable square footage that everyone tried to work towards, and maybe that would be a more realistic size

Also, the size of the fine—a first-time offence of \$500 may be a hardship to some small company, but certainly it is not a hardship to the larger companies, and I would like to see the size of that fine increased to maybe \$2,000 for first offence. Someone mentioned earlier \$10,000. I think that would certainly be a deterrent.

The Acting Chair (Mr Kormos): Two minutes per caucus, so brief and pithy comments, please.

Mr Daigeler: We certainly have a pithy chairman now. Welcome to this high office, Mr Kormos.

The Acting Chair: Life is ups and downs. I have been there, Mr Daigeler.

Mr Daigeler: Thank you for making the presentation. You indicated in your opening remarks that you were giving your personal views, but then you went on to state Sears's position. I am just wondering, when you described the Sears's position, in what capacity were you speaking there? I found it very interesting, but I would just like to be very clear as to whether that Sears's position is the official one.

Mr Ryz: I am coming before the task force to give my own personal opinion. I have made presentations before other committees before, and I drew from my experience on information that has been given to me in the past to support some of the comments I made today. It is my personal opinion, but the information that I have received is Sears' official position as well.

Mr Daigeler: Like the financial information that you gave us in terms of where Sears has been open and it has not increased their profit, that is coming from Sears?

Mr Ryz: Yes, that is right.

Mr Daigeler: Do you know whether Sears is going to make a presentation at all to this committee?

Mr Ryz: Yes, I was originally going to make a presentation on behalf of Sears in this market, but I was advised just this past week that our company would be making another presentation later on which will basically carry the same.

The Acting Chair: Thank you, Mr Daigeler. Time—

Mr Daigeler: We have got a tough chairman here now. We will have to cut Mr Kormos off next time he speaks.

The Acting Chair: You can try.

Mr Carr: On page 6, I think, for want of a better word, you hit the nail on the head. The first concern is that the city of Windsor would be successful in gaining a tourist exemption. It would be a very brief time before the other adjacent communities would have to open to compete. In fact, that is what we have been hearing.

You may have heard this morning, Collingwood said they voted 9-0 they are going to be open. Thunder Bay is going to open. Kenora is going to open. There will be some that will not be, I think Sudbury and North Bay. But the fact is, significant portions of this population will have open Sunday shopping in the province. I say the best guess I have got is it will be at least 60%, probably closer to 70%.

On the last page you say, "I ask this task force to recommend that current legislation before the House pass quickly." What you are saying is that you want to have a closed Sunday, but most people are saying that if Bill 115 passes, we will have Sunday shopping in this province.

Maybe you could just tell me the reasons that you want it to pass quickly when, in fact, this bill will make Sunday shopping legal in the vast majority of the province.

Mr Ryz: The city of Windsor bylaw regarding Sunday shopping was passed by an act after the June 3 deadline, so your passing this through the House now would nullify their legislation. That would return us to another control—

Mr Carr: Another shot at it.

Mr Ryz: —and this would force it to another discussion. Hopefully we could make some progress there.

Mr Carr: Unless there is a change, and there might be with the change in municipal government in the election, then what happens is that you get another shot at it, is what you are saying, and it might change.

Mr Ryz: Yes, that is right.

Mr Carr: I understand in the Windsor area it was fairly close. In some of the other ones, it was not. It was overwhelming. If one person were to lose their position, it would make it close.

I am thinking now in terms of the province. In fact, in Collingwood the vote was 9-0. So unless the entire people were to be thrown out, what you are saying is that you would like to see this, but you have the vast majority of the people saying, "We do not want the tourism exemption, because for all we know in the next municipal election there could be more people so that either it does not become an election issue or they do not very clearly articulate their position, or in fact a lot of people who want Sunday shopping get elected."

So that is where my confusion is. This bill as it is, will allow vast majorities in the province to be open, but you are saying you want quick passage, although you are opposed to Sunday shopping. I find that rather strange.

Mr Ryz: Yes, the tourist designation is one of the hiccups in the proposal, and certainly, if it were tightened—there has got to be some work done on it yet in the House—to make it very difficult for someone to achieve a tourist designation, I would really support that. The way it is right now, the tourist designation part of it is loose.

Mr Lessard: Your store is located at the Devonshire Mall, and it is really the anchor tenant, I guess, out at that mall. As such, are you required to open when the mall owners say that the mall is open?

Mr Ryz: No we are not. The mall started opening back in June. We did not start opening until the Sunday two weeks ago, and the reason for that is, we chose not to and now, because Sunday shopping has started to grow again, we felt we were losing market share and were forced into opening.

Mr Lessard: Based on your experience that you have outlined, that you did not really find it to your benefit to open on Sundays, why do you think that other stores and retail chains that are represented at the Devonshire Mall would be really pushing the government to allow wide-open Sunday shopping?

Mr Ryz: I cannot speak for them, I do not know. I know from my point of view personally and from our company's point of view, we do not wish to be open on Sunday.

Mr Dadamo: I have more of a comment than I do a question. I just wanted to say that for the longest time I have been in conversation with the Windsor tourist bureau, also the Windsor chamber of commerce and other business associations who would listen to me, and all along I have been asking for their numbers, or at least numbers to come back to me, to prove that by opening up on that seventh day, you in fact make new money, if you will, as opposed to, I think you are the second or third group that would say that you are only spreading it a little more, but you are not really bringing in some new type money on that seventh day.

Mr Ryz: That is right. Just because the retail business is open on Sunday, that does not give people more disposable income. They only have a fixed amount of disposable income, and they will either spend it in six days, or if you open seven, it will spread to seven. It does not generate any new business at all.

Mr Dadamo: I just wanted to say that those numbers have never found their way back to me and they have never proven otherwise, so thank you.

The Chair: Mr Ryz, thank you very much. We all appreciate your comments and your attendance today.

CLIFFORD SUTTS

The Chair: Mr Sutts, please seat yourself. Clifford N. Sutts, Queen's Counsel.

Mr Sutts: Thank you, sir.

The Chair: Far be it for me to inquire as to whether it is a provincial or federal Queen's Counsel.

Mr Sutts: I am here as a businessman.

The Chair: I understand that, sir. Please begin. Fifteen minutes, and try to leave some time for discussion afterwards.

Mr Sutts: I am not going to repeat a lot of territory that has been covered, but I want to make two very important points.

First of all, let me introduce myself. I am a lawyer. My practice involves me in business law, and I represent a

wide diversity of clients, each of whom has a different approach to Sunday shopping. However, today I am here as the vice-president and general manager of N&D Supermarket Ltd, which is a local company which represents a very substantial portion of the food business in the Windsor area.

At the very beginning, I must tell you that we support Sunday shopping. This is not a decision that we made easily. A year ago, I appeared before Windsor city council at a special meeting to consider this legislation, and to consider a bylaw, and at that meeting, our company's position was loud and clear: We want one law, and we want that law uniformly enforced. In other words, if we are open, allow everyone to open; if we are closed, make everyone close.

1450

The situation we had was where the law prohibited Sunday opening for a period of time and there were people flouting that law who were remaining open. The consequences for the competition were very significant and they were unfair. Our company at that point said, "Whatever it is, we will support, but enforce it." However, I am sad to say that in this community things have changed very dramatically.

I would like to tell you in the beginning the two points that I think my whole argument is based on. First, to make a blanket statement such as the speaker who preceded me made will lead you down the path to error, because there are differences in industries. The effects of the Sunday shopping will affect those industries in different ways. Second, once you recognize the distinction between these industries, you will find that the money spent on Sunday is not spent on Monday, it is for ever lost.

We in Windsor occupy a very unusual situation today. I have been carrying on a dialogue with the Premier, and it seems that we are in agreement on about one point only. My whole difficulty is that cross-border shopping necessitates Sunday opening in the supermarket industry, period. I do not think that is an argument you can refute. Our Premier has written to me and he has said, as I have said, "Cross-border shopping is a long-standing national issue which is not limited to Sundays. For border communities especially, it is a seven-days-a-week problem. It cannot be resolved by any policy affecting retail operation on Sundays." I agree it is a seven-days-a-week problem and it needs a seven-days-a-week solution. There is no question about it.

Let me point out one thing that is irrefutable. In our industry, in our company, what is our trading area? To be very elementary, our trading area is the area from where we draw our customers. Our trading area stops at the north, at the Detroit River, at the Canadian-United States boundary, and it covers Essex county. That is our trading area.

Who are our competitors? Our competitors are on the other side of the border. What is their trading area? Their trading area is the city of Detroit, the city of Detroit suburbs, and Windsor, Essex county, Kent county. They are drawing immensely from these areas.

Just today at my home I was talking to my wife, and she tells me we have had a 16-page colour bulletin

delivered in the mail advertising United States stores in Windsor, "Come to Detroit and shop, we accept your money at par," and so on. Stand at our border on Sunday and see the outflow of cars and the inflow of groceries. Those people who shop in Detroit on Sunday are not shopping in Windsor for those products they buy in Detroit.

What is our problem? How do we cope with that? Can we get people who come from Detroit here to have the pleasure of paying our 8% retail sales tax, our 7% GST, our very favourable prices for gasoline? Yesterday the Main Street station was selling at the equivalent of \$2.58 a gallon. I can buy it for \$1.05 to \$1.08 in Detroit. Cigarettes are \$19, more or less, a carton; \$43 a carton in Windsor. There is one little store at the foot of the bridge that is selling 3,000 cartons of cigarettes on a Saturday, people running across the border. You can buy Canadian beer in Detroit for half the price of what you pay at Brewers' Retail. When you put it all together, how can we compete with bringing people from Detroit to Windsor? The fact is we cannot. Our trading area stops at that border. So how can we be expected to compete in this community, to keep our business in this community?

We have all seen a wide variety of articles containing explanations of why people are going to Detroit. As recently as Saturday in the Globe and Mail we saw an article. They say that when you take into account cigarettes and the rest, there is a 16% advantage to going over to Detroit. Remove cigarettes and the rest and maybe it is a 10% advantage. But people today are very conscious of price. They are shopping for the best price wherever they can. If they get into a supermarket in Detroit on Sunday, forget it. We have lost them for the rest of the week, until next week, when they go back, and the habit has now been developed among the shoppers and the consumers in this area to go to Detroit.

I left a meeting on Saturday morning in Windsor. I drive down the street and I see an Art Van truck—for those of you who are not familiar, Art Van is a furniture store in Detroit—making a big delivery of furniture to a new home that was just constructed over here in Tecumseh. How do we compete with these things?

Stand at that border on a Sunday and look. What do you see? You see cars trailing back bumper to bumper from Detroit, and what are they carrying? Groceries. They are loaded with groceries. With our taxation and with our hospital benefits and health benefits that we provide to the public here, we know that it costs money, and it has got to be paid in the form of increased taxes. But how can we compete? If we cannot compete with the prices, we have got our variety of taxes, we have got our marketing boards, our consumer and labelling legislation, which is a killer. You guys should be looking at it.

This past week I just heard on CBC, I think Thursday morning, that a little grocer on Ottawa Street in Windsor wanted to sell a product at a special price so that he could compete with the people in Detroit. So he went over to Detroit, met the distributor, and he bought pork and beans. He was going to offer those pork and beans to his customers at three cans for 99 cents. He got it all cleared, it came to the border, and was stopped. Why? The Ministry

of Consumer and Commercial Relations: "You can't bring that into Canada. That's pork and beans. Under our legislation it's got to be labelled 'beans and pork.' No entry." The buyer was fortunate. He was able to take it back and they would accept it and he was able to find an alternative product in Canada which he could sell in Windsor for two cans for 88 cents.

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Mr Poirier: Caviar.

Mr Sutts: Right, the beans with the pork.

I mean, this is the absurdity of the situation that we are running into. If you ask your ministry for a codified section of all of its regulations, God help you if you can get it. I think now that there is a legal service that is being published that is trying to bring it all together, if it has not already.

But we have got to be allowed to compete. We have got to be able to meet these problems. Do not kill us. Do not let our own government stop us from competing with our major competitor, Pace, the warehouse store. The gentleman who preceded me from Sears, I do not know how much concern he has, because they are probably already represented through their US stores in this trading area.

I can demonstrate to anyone you wish to send to me, through experience, that we have gained during the period when we had Sunday shopping—Sunday shopping stopped and then it was on again—and the sales made in our company on a Sunday are lost when Sunday is closed. You never gain it. Your sales volume during the week will be less by the amount of your Sunday sales.

I acknowledge that if you are buying a car or if you are going to be buying a refrigerator, you are going to shop around and you are going to look and get it. You are going to have it for four or five years. But the steak that I need tonight, if I do not get it tonight, I do not need it tomorrow. I may have bought something else. The industries have to be distinguished.

Gentlemen, it is so important that you recognize that fact in structuring any legislation, that here we are on the border; allow us to compete. We are doing our best, and you are going to see a lot of fatalities. I can see it in my practice now that people here are hanging by their fingernails. If we are not careful, we could push them over the edge. I made the statement not too long ago that if I had to open a supermarket today, I would probably put it on the other side of the border. It would be a hell of a lot easier to compete by doing that.

In closing, please, whatever you decide to do, do not include supermarkets in your Sunday closing legislation, exclude them.

The Chair: Thank you very much, Mr Sutts. Unfortunately, I believe we have run out of time.

Mr Sutts: I am sorry I was so verbose.

The Chair: Normally we would like to allow for questions regardless, but we do have a pressing number of people coming in.

Mr Morrow: Can I please ask that each caucus be allowed to ask one brief question?

The Chair: We have an additional presentation because of a problem with the morning's presentation.

Mr Sorbara: Mr Chairman, I would support Mr Morrow's request. If we have to hold up the bus by five minutes, the world will not come to an end.

The Chair: We are also holding up presenters. All right? So we have a request for one question per caucus? Mr Poirier.

Mr Poirier: Thank you, Mr Chair. Thank you for your presentation. Imagine how tough our job is, listening to the gentleman from Sears, for whom I have a lot of respect, and a lot of respect for what you are saying also. But it is black and white. There are no grey zones. You open or you do not. You cannot just half open the door. It is like capital punishment: You hang or you do not hang; you just cannot half hang. In this dossier, how would you resolve that difference? If you were in our shoes, how would you do it?

Mr Sutts: I would exclude supermarkets out of self-interest and a desire to survive. You know that it is absolutely essential to survival to be able to stay open to compete. If the other industries feel that it is not necessary to remain open to compete with their US counterparts, that is fine. Most of the companies you find in the retail industry here are to a large extent subsidiaries; they have got presences in the United States. The small retailer here is feeling the pinch. You can walk down our main street and see the number of empty stores with "For Lease" signs on them as an answer to the problem that we have got.

I would suggest that you are going to have to exclude, just like a tourist area, certain industries. Are we going to legislate the closure of factories? We cannot produce plastic parts on Sunday? I think your legislation already provides the protection. You cannot force anyone to work on Sunday. I know there is a variety of arguments and counterproposals to that, but what is the choice?

Mr McLean: My question will be very short. For 1982 the city here passed a bylaw which took into account the tourist designation. We had indications that it worked well. If the legislation today was tightened up with the tourist designation, would you agree with that?

Mr Sutts: If you are asking me to comment on a 1982 legislation and bylaw, I am really not equipped to look back. I do know it is essential we remain open and whatever legislation it takes to do that is what is needed. If we are going to be looking at the self-preservation and survival of our retail industry in border communities, we have got to do that. We have to look at it on a case-by-case basis. Perhaps there should be a basket clause that allows exclusions on demonstration of the need.

Mr Dadamo: Thank you, Mr Sutts, very much. There is one store near me in the riding I represent, an N&D, and now in my neighbourhood. When I was talking to a group of business people in Toronto a little while back, we were talking about showing some sort of comparisons, via newspaper articles, I imagine. Has N&D, both those stores in this city, ever done that; in other words, where they have shown what a particular product would cost here as opposed to what it would cost in the United States?

Mr Sutts: No, we have not. I think some of the discrepancies are so phenomenal. For example, at last American Thanksgiving, in November 1990, turkey was advertised in the United States at between 37 cents and 47 cents a pound. We had a mad exodus of people running over to buy turkey, because here, where we are governed by a marketing board, the marketing board price at that same time was \$1.34 a pound. So how can you sell turkey here? You cannot. The comparisons are very rough to make and you have to look at select products and I do not think you can generalize. That is the difficulty.

The Chair: Thank you very much, Mr Sutts.

ONTARIO CONVENTION AND VISITORS ASSOCIATION

The Chair: We now have a short presentation from the Ontario Convention and Visitors Association, Jonathan Deneau. I should mention at the outset that this morning we had an extra presentation and there was mention made, because we had that presentation from the Convention and Visitors Bureau of Windsor, Essex County and Pelee Island, it was thought and represented that it would take Mr Deneau's place. I apologize to Mr Deneau for not being aware of that distinction. Please proceed when you are comfortable, sir.

Mr Deneau: Maybe I will help to clarify some points by initially giving a little overview of the Ontario Convention and Visitors Association, of which I am the current president.

The mission statement of the Ontario Convention and Visitors Association is to promote Ontario destinations through the meeting and convention industry. Basically, we are an industry association which is made up of various convention and visitors bureaus across the province, 23 to be quite specific, and then we have 12 affiliated members which are particularly in the hotel industry. Geographically, our membership is represented from the various regions from North Bay to Windsor. Member organizations are both border and non-border communities. The organizational makeup of our members ranges from either being full municipal departments or divisions of local chambers of commerce, so our membership, although it is only 23, is quite a diverse membership and represents quite a constituency.

The OCVA has been Ontario's voice in our industry since 1979 and provides a wide variety of services to its members. Basically, the position of the OCVA with respect to the amendments to the retail business establishment statute is that the OCVA believes the public should have the free and unrestricted right to choose when and where to make retail purchases. In addition, retail business establishments should be permitted to open without restrictions. The OCVA is pleased, though, with the amendments to the Employment Standards Act that take into consideration the operating realities of the tourism industry. I have a few facts I want to bring forth to you and I am sure you have heard these before on a number of times. I will try to make them brief, especially its being 3 o'clock in the afternoon.

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It basically deals with the rough economic impacts of tourism. Again, I am sure you have heard them. I would

like to reiterate a few. Tourism represents the province's largest private sector employer. We are the largest employer of women, youth, indigenous peoples and visible minorities, which I think is very important. We are the province's third-largest industry. In 1990, we had \$36.9 billion in sales. We are the province's fourth-largest export industry, \$3.06 billion in foreign exchange earnings in 1989. Those are new dollars, outside dollars, coming into the province. Ontario is considered the gateway to Canada, with approximately 67% of all US visitors entering Canada through the province. We are the largest commercial consumer of Ontario-produced agricultural products. Therefore, you can see the economic spinoff that the tourism industry has. Of all convention delegate spending, 8.2% very specifically deals with or is in the retail sector.

With respect to the investment being made, and I am only going to touch right now upon the government investing in tourism in Ontario and promoting it, it is projected that in 1991 the Ontario government will be spending between \$5 million and \$7 million to attract US tourism. Another \$2 million will be spent on promoting intra-provincial tourism. That means keeping the Ontario tourist within Ontario. Let's stop them from going across the border or anywhere else.

In addition to that, both the federal and provincial governments are spending money on rebate programs. We have imposed taxes, specifically the 7% GST and the 8% provincial tax, but we are rebating this. This is an additional, very extensive cost, not only to the federal government but, more specifically, to the provincial government. In 1991, the OCVA operations survey of our small members—and this is excluding Toronto and also, in addition, excluding Windsor, Ottawa and London, larger municipalities with large spending amounts—the average spent in the smaller communities was \$205,000 per community. That may seem, with the figures that we throw around, to be quite small, but it is not small when you are talking of a small community like Goderich, where that is an expensive expenditure for a city of that size. Tourism is still very important to them. Collectively, our association members spend in excess of \$5 million promoting the province.

At this time, the states neighbouring Ontario—that would be Minnesota, Pennsylvania, New York, Ohio and Michigan—are not restricted by any type of restrictive Sunday shopping bylaws. According to Statistics Canada, between January and May 1991, almost 10 million Ontarians made same-day trips to the United States and four million of those were on Sundays or holidays. In that same period, 2.2 million Ontarians stayed for one or more nights, 900,000 of those being on Sundays or on holidays.

Cross-border shopping to the United States is now being estimated to cost Ontario about 14,000 jobs and \$2.2 billion in lost business. What is very interesting is that Canada and Ontario are becoming net exporters in the tourism industry. This is something new to us. In the past—and I am sorry I do not have all the figures—we were a net importer. The people in Ontario and Canada were receiving more tourism dollars than they were spending externally to the province. I think that is also very important.

With respect to intra-provincial travel, which is very important with tourism, in 1990 the total tourism market for most of Ontario destinations was 131 million people. In other words, there were 131 million people travelling from one destination within Ontario to other destinations. That is a very lucrative market and something we need to keep and to promote further.

With all these facts in mind, and all of us coming from Ontario, we have a beautiful province to promote. We have excellent destinations that can compete with anybody. The provincial government is spending money and our own municipalities are spending money. We have got what it takes and, basically, a major investment is being made. We also have at our doorstep one of the most lucrative tourism markets in the world, that being the United States. Yet it seems that the legislation either passed or the legislation that is being considered right now is actually being rather restrictive, and the OCVA feels that really is not only unfair but just does not make good business sense. A cross-section of our members feel this way, that if you have the opportunity and you have what it takes to do it and you are investing money in it, why do you want to restrict it and why do you want to put some handcuffs on it?

Tourism is very important and I think we have to come of age and we have to start competing with our closest competitors, the states that I mentioned, in order to be successful in this tourism market. Thank you very much.

Mr Sorbara: I am sorry I was not here for the initial part of the presentation. The government has argued that one of its purposes in bringing forward this legislation is to enhance the quality of life of the people of this province. Communities like Windsor, London, Toronto, wherever you go, want to enhance the quality of life by somehow bringing about what they describe as a common pause day. As far as you are concerned, what contributes to a high quality of life, and will the fact that I might be able to go out and buy a toaster oven on Sunday somehow attack that quality of life, in your view?

Mr Deneau: First off, I would like to comment that I am certainly not being cynical with respect to the 14,000 jobs that are going to be lost just due to cross-border shopping alone. You would have to talk to the 14,000 people as to where their quality of life is going when they do not have a job. I think that is a very important point.

With respect to the second point, the quality of life of being able to shop on additional days—is that the point? How does that add to it?

Mr Sorbara: No, what I was asking is, what in your view contributes to the quality of life in a community? You can be very subjective and personal. What for you is important to have a high quality of life, and will the fact that stores are able to remain open on Sunday detract in any way from those things that contribute to the high quality of life you look for in your community?

Mr Deneau: No, not at all. I think having stores open on Sundays will not detract because I think the one clear point has to be that because a business operates for seven days does not mean people are working seven days in a row. People are being given the opportunity. The Employment

Standards Act clearly states that these people have the right to time off and they also have the right to refuse Sunday and holiday work. If you are considering enacting legislation that will cover that, there is only the up side, that if you are open on Sundays I think your business increases. I think you increase business, you increase employment. The more people who are employed, the better quality of life.

Mr Carr: Thank you very much for your presentation. As you know, the people who are opposed to Sunday shopping have come through and said that in spite of what the Premier has said, this does not do it. There will be Sunday shopping because of the tourist exemptions. The expression that has been used that sticks to mind this morning is that they are broad enough you could drive a Mack truck through them. As a result of that, they are advocating getting tougher on the tourism exemption. If the government, as Mr Mills has said many times, is listening, if in fact the government were to listen to that and change the tourism exemption and make it more difficult, how do you see that hurting you? From what I understand, you are not happy with this legislation, but at least there is some out, where a municipality can use the tourism exemption and so on. If it gets tougher in terms of the tourism exemptions, how will it hurt your particular industry?

Mr Deneau: It will certainly hurt tourism. There is no doubt. I think it is restrictive enough as it is. If you get a little bit more restrictive, then you are again becoming even more unfair. Who has the right to open? Who does not have the right to open? Who are you going to restrict? Who are you not going to restrict? You are leaving it up to a municipality.

In addition, you are going to have very inconsistent openings across the province and it is certainly going to be confusing to our potential tourists. When you travel to Sudbury, are the stores going to be open in Sudbury? What stores? You do not know, because it is very restrictive. I do not see how that could help at all. I think it is just trying to get closer to the fact of no Sunday shopping.

Mr Sorbara: Mr Chairman, before the next question, can I raise a point of order?

The Chair: Yes, Mr Sorbara.

Mr Sorbara: Sir, whenever I come to Windsor I stay at the Hilton International. I like this place. It is very comfortable. This is a beautiful room, but the government of Ontario is probably paying a significant sum to use this room. I wonder if someone could prevail upon the hotel management to ask that the jackhammering just stop until we have finished these hearings. It is almost impossible to follow the questions.

Interjection: I will talk to the manager.

The Chair: You will?

Mr Morrow: It's next door, Greg.

Mr Sorbara: Oh, that is too bad, because it is extremely difficult. The hotel should have advised us that this would be going on during the hearings. It is extremely difficult to follow the witnesses. Sorry, I thought it was in the hotel.

Mr Deneau: They have a deadline to meet too—October 1.

Mr Sorbara: I hope they get to the deadline. I want to be here for Anne Murray and all of that stuff, but I also want to be able to hear you.

The Chair: You are quite right. It is extremely annoying and disconcerting.

Mr Morrow: Thank you for your fine presentation. I just want to talk to you about one of your comments about 14,000 jobs and the 40%. You are attributing that to Sunday shopping. I have a hard time with that. That should be a cross-border issue regardless of whether or not we have Sunday shopping. As a matter of fact, when we had wide-open Sunday shopping people still crossed the border, did they not?

1520

Mr Deneau: They crossed the border, but there is also something you have to consider: How long have the stores been closed on Sundays? I think that is a long process. When the stores were opened up on Sundays, the next week people expected people to be driving across the border in hordes and they did not know about it. You just cannot open your doors after years of being closed and suddenly the business is going to be there.

With respect to saying that 14,000 jobs has to do with Sunday shopping, that was not my point. My point was that we are losing 14,000 jobs, and the business of the cross-border shopping that is occurring in the trips going over are 40% of that. Let's say 40% of 14,000 we can directly attribute to business going over on Sundays and holidays.

Mr Morrow: But other than Sunday shopping, are people not crossing the border due to GST and the free trade issue?

Mr Deneau: There is a whole myriad of issues. If there are three main issues—and this is certainly up to anybody; it is up for debate—you can say it is GST, free trade and Sunday shopping. What we are discussing here though is the opportunity to take control of one of those, and if we can take control of one of them then we are at least one third of the way there.

CITY OF WINDSOR

The Chair: We now have a presentation from the city of Windsor, the city clerk, Mr Lynd.

As you are aware, sir, we have approximately half an hour, if you can divide that time between your presentation and some opportunity for committee members to ask questions. Let me apologize for the very disconcerting sound environment we have here.

Mr Lynd: It is sort of progress here so we are happy that they are building the addition.

Mr Chairman, members of the committee, I am going to be somewhat brief. I did submit to your secretary a copy of a five- or six-page written submission that was submitted to Windsor city council. In this particular written submission there is also some background information. It does not go quite as far as what Jonathan Deneau, the previous speaker, talked about, tourism and the importance of tourism to the local area.

The statistics we have are that there is a market of six million people in this metropolitan Detroit area that the local tourist bureau and others are always trying to pro-

mote and encourage to come over. Windsor really is a tourist area, since about 80% of the advertising and such from the convention and visitors' bureau is aimed at that market. Clearly Windsor and Essex county and the entire area are dependent upon tourism.

Just for background, in 1982 Windsor city council did enact bylaw 7330, which established Windsor's first exemption under the Retail Business Holidays Act. That particular exemption was in the downtown area.

Mr Daigeler: Mr Chairman, could I just interrupt for one second? I may have missed it. I fully understand the position of the city of Windsor, but did you say who you are with the city of Windsor?

Mr Lynd: I am sorry. I am the city clerk and am basically appearing on behalf of the corporation of the city of Windsor, the city council. In 1982, city council did enact its first bylaw and it exempted the downtown area. At that time the downtown area basically was the downtown business improvement area. The same boundaries were used for that exemption. That particular exemption continued and then in May 1990, when the act was amended, council did have public hearings. At that time they heard a number of delegations and a decision was made to expand the designation but it kept the downtown business area boundaries. It also exempted trade shows, so it did widen it, but it did not go all the way to wide-open Sunday and holiday shopping.

In May 1991 public hearings were heard again after there was some request for some action to be taken. At that time, on May 14, 1991, a decision was made by city council to enact a bylaw to exempt the entire city of Windsor. The bylaw widened it up to exempt the entire area, but it also restricted the number of holidays, restricted it to Sundays and eliminated certain defined statutory holidays. That bylaw was given first and second reading on May 14 and third reading was deferred to allow for the introduction of the provincial Bill 115. Then, once the bill was introduced city council met again, considered its bylaw and on June 17 gave third and final reading to the bylaw.

There are two basic issues. The one is the matter of tourism criteria. The recommendations are that municipal council is a publicly elected body, that it is here to look after the needs and wishes of the inhabitants and therefore should be the best judge of what is necessary in terms of the local tourism market, the local need for a designation.

The second issue involves the transitional rules. Windsor city council is somewhat caught in a catch-22 situation because the proposed legislation says that if you had a bylaw enacted on June 3 or before that, it would stay in effect for approximately a year after the provincial legislation is proclaimed, and if your bylaw was enacted on or after June 4, that the bylaw would be automatically repealed on the date that Bill 115 is proclaimed. In Windsor's case, first and second reading were given prior to the June 4 date. Since this bylaw was legally passed under the presently existing legislation—it repealed the previous downtown designation—if these are absolutely applied, then Windsor will find itself without a bylaw on the date that the legislation is proclaimed.

To summarize, city council is basically saying that municipalities are local bodies and that they are responsible, elected bodies and should be given the opportunity to provide for any tourism exemptions without having to have any constraint from provincially defined criteria. The second is that the transitional rules be changed to provide that there be unconditional grandfathering of all municipal bylaws. So the Windsor bylaw, which followed a hearing, which also was given three readings under the presently existing legislation, should be allowed to stand as well. Those are the two recommendations that are contained in my written submission.

Mr Sorbara: I have a question and I think Mr Daigeler may have a question as well. I think the points you make are very valid. Can I surmise from your first submissions that if the government were not to proceed with this bill and the local option, which was such a subject of fierce debate back in 1988, were to remain in place, that would be just fine for the city of Windsor and you could manage to establish your own set of rules and regulations for Sunday shopping in Windsor?

Mr Lynd: Yes. I recall that when there was the movement to widen up the discretion, there was a lot of debate at that time between municipalities and their associations and the province. But city council has taken advantage of the existing legislation and is satisfied that it gives it the powers to make a local choice.

Mr Sorbara: I am just wondering whether the committee is aware of how severe the consequences are for the city of Windsor because of the transitional provisions within the bill; that is to say, on the date that this bill is passed—and if you count, there are more of them than us, so this bill will pass—the bylaw in Windsor becomes null and void and requires virtually every store that had been open under your bylaw to close the very next Sunday. Is that the case? Am I interpreting it correctly?

Mr Lynd: That is the case and we would have to start the process with public hearings. The public hearings have been held under the existing bylaws.

Mr Sorbara: Can I throw out one other caution? Under the legislation as it is presently formulated, the city of Windsor cannot initiate public hearings of its own accord. It will have to wait for applications to come forward from one business community or other, so even if it wanted to open up some stores on Sunday, in the best interests of Windsor and the surrounding area with the previous bylaw, if an application was not coming forward from a retail business or a shopping district the city of Windsor could not move on its own accord. Do you think that is a fair way to treat municipalities? To me it sounds paternalistic.

1530

Mr Lynd: Being a bureaucrat more than a politician, I do not know if I can really comment on that, but you are correct in the interpretation that council would have to wait for an initiative from an individual or a group to prompt some change or a new bylaw, absolutely.

Mr Daigeler: Did Windsor council support the local option during the last round of hearings on the Sunday shopping question?

Mr Lynd: Initially there was some opposition to it, feeling that the Retail Business Holidays Act was a provincial enactment and the province should not be delegating—

Mr Daigeler: Are you telling us they have had a change of mind?

Mr Lynd: That is right, they did, but once it was changed—

Mr Daigeler: Do not worry too much because my own area, the regional municipality of Ottawa-Carleton, also acknowledged that. It has seen the thing in operation and has changed its mind. It now supports the municipal option.

The government members have mentioned several times that they made a promise during the last provincial election to change the municipal option back to stricter provincial guidelines. In your opinion, was the Sunday shopping issue a question in the last provincial election, and do you feel that the NDP is morally bound by that promise it made at the time?

Mr Lynd: On that I really do not have a comment.

Mr Daigeler: I think you could say whether it was an issue in the Windsor area, from your observations. That is what I am interested in.

Mr Lynd: I think I am appearing here as the clerk of the city of Windsor and not as an individual to give my own personal feelings on that particular point.

Mr Daigeler: It is a sociological fact, whether it was an issue or not.

Mr Lynd: I really cannot say with any certainty or anything on that.

Mr Daigeler: Thank you.

Mr Carr: Good afternoon and thank you for your presentation. I was interested in page 4, where you talk about the grandfathering provisions. You said you had gone through first and second reading and then held off with third reading, “deferred pending the introduction of the bill.” Were those the council’s wishes or the provincial government’s?

Mr Lynd: No, they were the council’s wishes. At that time there had been information provided by a letter from the provincial government that the legislation would be introduced on a specific date. There was no indication of the content of the legislation. It was basically a decision of council to wait and see and take a look at the provincial legislation. But once again, to look at council’s action—the legislative process does take time; it is a process right now—that council decided to give its third reading to allow the implementation of the wider bylaw in anticipation of some legislative delay in implementation.

Mr Carr: Are they upset at the fact that they waited and the province then came and said you had to have it by a certain date? Is the council upset now?

Mr Lynd: There was nothing recorded at that time in the form of a resolution that was presented, so the council

just felt it was prudent to introduce the third reading and finally passed the bylaw.

Mr Carr: Just on a personal note, if it is public knowledge I would not mind a copy of that. If it is not, I would understand.

Mr Lynd: The particular letter, you are saying?

Mr Carr: Yes.

Mr Lynd: It is a public record. We could provide that to you. Basically the letter said nothing more than that it gave the legislative timetable they were expecting to—

Mr Carr: A political letter. What were the votes? I was thinking back now. You have given a couple of dates with a couple of votes and I was wondering whether you know what the votes were, starting with the most recent one with third reading. What were the numbers?

Mr Lynd: The most recent one, which was the June 17 vote, was not a unanimous vote. There were four negative votes on an 11-person council.

Mr Carr: Did some abstain?

Mr Lynd: I am sorry, you are right. There was one abstention and there were four “nay” votes.

Mr Carr: So it was 5 to 4?

Mr Lynd: That is right.

Mr Carr: What about going way back to some of the other ones? I do not know whether you have that at your fingers.

Mr Lynd: I do not have those files going back that far.

Mr Carr: Would it be safe to say that you are looking at a very divided community? I mean five, four is entirely—

Mr Lynd: There always were close votes on the particular issue, and having attended and transcribed the records for both of the public hearings, there were strong delegations and numerous ones on both sides.

Mr Carr: As you know, what has transpired, what a lot of communities are upset with, is the fact that it has now pitted virtually neighbour against neighbour in these battles, and they have been very emotional because people feel very strongly on both sides. When you throw it back into the municipalities, that happens. If the province does it, then both sides can yell about how the fact that it is Toronto making the decisions, and one way or the other we have a solution. Is it the feeling of council that it wants to have another go around with this thing again? What is their feeling?

Mr Lynd: I think they would rather avoid the go around, having had public hearings both in 1990 and again in 1991; that you find you get the both sides appearing and their positions really do not change. I will add, and it is sort of recorded in the position, that city council has no concerns or opposition with the recommended changes in the labour legislation, so there is no opposition to that particular protection for the worker. There was never any opposition.

Mr Carr: This question is more of a political one, and I understand that you could not guess in the last provincial election whether it was a big issue or not—I guess Wayne and George would be the best guess at that—but with the

municipal election coming up, do you see this being a big issue or, knowing the city, what are the big concerns? Is this going to be a number one battle, or what?

Mr Lynd: As the returning officer, I am just getting into the process and there really has not been much political debate on issues thus far, so I do not know if it would become a big issue. I would not, personally, as a resident of this city for 45 years, expect it to be one of the key issues, but it could possibly be.

Mr Carr: Yes, thank you, and good luck.

Mr Lessard: Thank you very much for your presentation, Mr Lynd. There is one thing I just wanted to clear up as a result of the submission from the chamber of commerce this morning, and I will just read to you from that presentation. It said, “As a result of a last-minute appeal from the Solicitor General, third reading of the bylaw was delayed until the middle of June,” and of course that is a reference to the first and second reading on May 14.

The submission goes on to say, “We feel that the Solicitor General’s actions on this matter were in bad faith and unfair to the retail business establishments in Windsor who relied on his prior assurances.” Do you know if there was an appeal that was made by the Solicitor General, or some request that was made to delay third reading of the bill that caused city council to delay third reading?

Mr Lynd: Very clearly my recollection is that it was just on the basis of a letter advising of the date when it was expected the legislation would be introduced. There was no request by anyone from the government, either through the ministry or anyone else, to delay giving third reading or taking any type of action. I was just trying to look very quickly through my notes but I have not been able to locate it.

Mr Lessard: You were at the meeting yourself, though, right?

Mr Lynd: That is right.

Mr Lessard: You did not get the impression there was any pressure being exerted by the provincial government to delay third reading?

Mr Lynd: No, it was just basically the information as to when it could be expected, and council had that information before them and there was no pressure or anything like that.

Mr Lessard: So city council waited to have third reading and by the time third reading came around they knew what the proposed legislation looked like and the fact that the bylaw was going to be caught by it. They knew the impact of the legislation, but notwithstanding that, they passed the bylaw, and now they are asking us to change the bill?

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Mr Lynd: But I think in fairness to the council, they did have the public hearings; they did debate the issue at a public council meeting; and they did give notice, during first and second readings, of their intention with respect to wider-open Sunday shopping, as a public body. I guess they felt it necessary, having done that, to go through with it and finish third reading of the bill and to enact it as a

bylaw, understanding, I suppose, they were caught in a catch-22 situation.

Mr Lessard: City council had the opportunity, I guess, since 1988 to implement the bylaw that it did, finally, in June. Were there ever any attempts to have wide open Sunday shopping prior to 1991?

Mr Lynd: In 1990 there was a public hearing and there were requests for it at that time, and council chose not to pass it at that time. They just exempted trade shows from the restrictions. There had been previous times where there were requests made from various interest groups to widen up that did not reach any public hearing stage, but they may have been recorded more for council's information, and no formal action was taken for a hearing. It was not really until 1990 that they began debating it under the present legislation, and in 1991 they took very positive action.

Mr Lessard: Do you know what the vote was in 1990?

Mr Lynd: I do not have that, but there were also negative votes on it as well. I do not have the actual vote with me.

Mr Lessard: All right, thank you.

The Chair: Thank you, Mr Lessard. Thank you very much, Mr Lynd.

Mr Sorbara: Mr Chairman, might I just raise a point of order at the end of this submission? Sir, the transitional provisions of the bill have a very unusual effect in the city of Windsor because of the timing of the first reading of the bylaw and the final reading of the bylaw. I wonder if I might just ask for written confirmation from the Solicitor General's ministry as to whether or not they would be supportive of a friendly amendment. We will be putting forward an amendment when we go to clause-by-clause consideration of the bill, but a friendly amendment to resolve the difficult and unusual situation that the city of Windsor is in. We might even have a straw vote on the committee now to see if they would be supportive of that sort of thing, to encourage the Solicitor General to acknowledge the unusual circumstances of the city of Windsor.

The Chair: Thank you very much, Mr Sorbara. As you know, that is not a point of order. However, it is still a very good question and I am sure the parliamentary assistant is taking note of it.

Mr Sorbara: I will make it as a request for information, written confirmation from the ministry as to whether or not they would be supportive of that sort of amendment, given the unusual circumstances of the city of Windsor.

The Chair: Thank you, Mr Sorbara.

PATTI-JO LANE

The Chair: Our next presentation is from Ms Patti-Jo Lane. Ms Lane? Thank you for bearing with us through all this noise and changing schedules. We have about a quarter of an hour. If you could, if possible, share that time between your presentation and an opportunity for the committee members to pose questions to you. Please start when you are comfortable, Ms Lane.

Miss Lane: I am nervous. Good afternoon. I must admit outright that I am against Sunday openings. We

Canadians have many essential economic issues to consider at present. Ontario is the economic hub of Canada and it also is bestowed with this country's legislative matters. According to Maclean's issue of August 26, 1991, 35% of the population lives in Ontario and we generate 50% of the federal government's revenues.

I am here today to voice my concerns and to protect my future family. I will not idly sit by and assume this country's governing powers are being conducted for the good of all, and are just. I am proud to live in Ontario, but more so, to be Canadian. Allow Ontario's population to celebrate a day exclusively set aside for our families. Help us maintain our uniqueness and our individuality, since we are losing it slowly due to our proximity to the United States.

In July 1990, council member Tom Porter stated, "Many Windsorites already work occasionally on Sunday and enjoy other days of rest and relaxation with family." If I have a day off during the week my kids would be in school, my husband and friends would be at work. So where is this family time, I ask you? In my home Sunday has been a day for the family unit to function as a wholistic entity. Please do not take this quality and quantity time away from the family.

City council opened retailers in July 1990, while management believed our sales would increase. However, what we have experienced is our sales spread over seven days rather than an actual increase in sales. Furthermore, the availability of hours open has been questioned. The average mall is open 63.5 hours and the average citizen has a 40-hour work week. Therefore, there is a surplus of 23.5 hours available to the consumer. I sure as heck would not call that limited. Who do you know who shops 20 hours a week?

Since December 1990, I have seen a shift of view taken by Windsorites and city council members. In August 1990, Michael Hurst was quoted as saying that Sunday openings "will provide a real protection for retail workers." However, a year later in August 1991, a study by the University of Windsor states that cross-border shopping will result in a loss of 4,600 jobs and Canadian expenditures in the United States of \$58.7 million to \$117 million in the next year.

So city council members opened us on Sundays so Canadians would not spend \$1 million each Sunday in the United States, but based on my latter statement, Canadians are still in a mass-exodus shopping mode. I think it is now apparent what the central issue is here. It is not Sunday shopping but deficiencies in our current distribution system.

Also, I have noticed an increase in US shoppers venturing to the Great White North. Our government is offering US citizens incentives to patronize Canadian stores by refunding the GST and PST paid on purchases. Why not have border-city municipalities offer the same rebate to their very own taxpaying citizens as a method of reducing cross-border purchasing?

In the August 1991 issue of Windsor Business Life, it states, "Detroit merchants offer better quality, more selection and lower prices." To emphasize this, the federal government released a 50-item product list that would reap the benefits of the GST. The Consumer Association of Canada conducted two price checks of these items prior to the

application of the GST and two checks after its application. In the June 17, 1991, issue of Maclean's magazine these consumer watchdogs found that only 18 products cost less.

With ever-increasing tax burdens, Canadians are being forced to scrimp and save wherever and whenever possible. Can you actually blame us for getting more for our looney?

In conclusion, I wholeheartedly agree that cross-border shopping is of epidemic proportions, but opening retailers on Sunday is not the solution. Our family and personal lives are infringed upon enough by our business activities. With Sunday openings I now have an 18-hour weekend. Please allow the family to maintain its vital function, thereby detaching business life from family life. Thank you.

Mr Sorbara: Miss Lane, do you work in a retail store?

Miss Lane: Yes, I do.

Mr Sorbara: What store is that?

Miss Lane: I cannot tell you. I was told specifically, "Don't say where you work."

Mr Sorbara: Is the store that you work in open on Sunday?

Miss Lane: Yes, we are open.

Mr Sorbara: Do you work on Sunday?

Miss Lane: Yes, I do.

Mr Sorbara: Are you forced to work on Sunday?

Miss Lane: No, I am not.

Mr Sorbara: So you volunteer to work on Sunday.

Miss Lane: Yes.

Mr Sorbara: If you said to your employer, "I would prefer not to work on Sunday," what would happen?

Miss Lane: Actually, nobody has refused so far.

Mr Sorbara: No one has refused so far, but if you said to your employer, "Gee, I would prefer to stay with my family on Sunday," would he cut your hours or attempt to fire you, do you think?

Miss Lane: I cannot answer that, because I have worked in all of the stores in Windsor and we have eight stores in the Windsor area and I work at Devonshire Mall and Devonshire right now is the only one open on Sunday. We have other stores in University Mall, Tecumseh Mall and in the downtown area. Our downtown store is closed on Sunday and so far nobody has refused to work.

However, I have a management position and if I refuse to work it would lead the way for the rest of the group to say, "Well, if she doesn't, then why do I have to work?" Then you have the situation where within the past six weeks we have hired two part-time girls and they are saying, "Why do we have to work every Sunday?" because everybody else is working during the week. So we are finding that we hire them and say, "We want you available to work almost every Sunday," and because they are young girls and they are finding there are men out there and what not, they want to have the weekends off.

Mr Sorbara: Are you aware that the laws of the province of Ontario give you the right to refuse an assignment of Sunday work?

Miss Lane: Yes.

Mr. Sorbara: Do you feel like you could take advantage of those laws if you decided you did not want to work on Sunday?

Miss Lane: I choose not to. As I have said before, I have to set a good example for the rest of my employees.

Mr McLean: You must be getting a settlement to work on Sundays. Is the staff who work there on Sundays getting time and a half or a bonus?

Miss Lane: No.

Mr McLean: Nothing? I appreciate your presentation. It is a different point of view and I respect that. I think what we are seeing today is a broad spectrum from this community that has a very real concern with regard to Sunday shopping and I thank you for your presentation.

Mr Kormos: You come here talking about the things that you are talking about, and you are talking about family and spending time with your family and enjoying things about your community other than the business life of the community. You seem to be saying that maybe we should reflect on the type of lifestyles we lead, because—you know what?—people have come before this committee and talked about shopping as a leisure activity. I go, "Holy zonkers." They have actually got us conned into thinking that when we buy their products, most of which when we reflect on it we really do not need, but as we become more and more acquisitive and acquire more and more of these consumer goods, they have got us actually thinking that it is fun too. Right? They are running those credit cards and they want us to do it on Sunday, and it's supposed to be so much fun that we take our kids there and our spouses and our parents and grandparents and say, "Let's go to the supermarket or the department store."

You have got some people who would somehow suggest that you, by saying what you are saying—and some of the church people, the preachers and church leaders who have come here and said the very same things you are saying, and some of the trade union people who said some of the same things you are saying—somehow are old-fashioned and are out of step. So I ask you this, do you mind being old-fashioned when it comes to family values? Does it bother you at all for them to call you old-fashioned?

Miss Lane: First of all, I am not that old.

Mr Kormos: I knew that.

Miss Lane: And I guess because I have gone to university and my profession is social work, I have a more—

Mr Kormos: Please, listen to this lady.

Miss Lane: I value the family unit more than maybe—I do not know if "your average person" would be the correct phrase, but I maybe understand it a little bit more. Everything I have been seeing lately—and I guess I am embarking on that, getting married and having a family, and it has become a real concern of mine right now. I see all the rest of the ladies I work with, that they are getting up at six in the morning to get the kids together with the 10 diaper bags and take them over to the day care centre. Hopefully their husband is on shift work so they get a break every second week, so they do not have to pay

the babysitter \$200 out of their paycheque and what not. Then they have to go and pick up the kids at 10 at night, and they are sleeping, and the whole system is just very disruptive.

I really cherish my Sundays. Since we have been open, I have not gone Sunday shopping. I do not consider it a leisure activity. I see women come in the mall and they are there from 9:30 on a Saturday to 6 when we close and they say, "Oh, God." They are putting themselves through all this and I am saying, "Well, you do not have to." So in response to what you asked me, yes, I do not mind being old-fashioned and I think the way our society is nowadays we have gotten so fast-paced and, you know, we are just doing this and doing that. We have to get back to basics.

Mr Kormos: Thank you. I think you are right.

Mr Sorbara: This is just a good old-fashioned labour government.

Mr Morrow: That is right. You are right.

Mr Sorbara: Save it. If you are worried about the worker—

Interjections.

The Chair: Gentlemen, please. May I introduce our next presenter and perhaps you can have your discourse later.

Mr Sorbara: Mr Chairman, could I move a motion that we videotape Peter Kormos's questions. They are so good, so dramatic and entertaining, I want to be able to take this home for a good old-fashioned half-hour of shock TV.

Mr Kormos: Mr Sorbara, I have got videotapes at home I can sell you.

Mr Sorbara: You used to sell videotapes, and they are still illegal. I want to tell you that. The ones that you used to sell, they are still illegal. That is good, old-fashioned values for you.

Mr Kormos: Give me a break.

The Chair: Thank you very much, gentlemen. We do have some presenters who are waiting and we are behind time. I realize after the interruptions of those jackhammers one tends to get a little bit frayed around the edges, but we have only a few more presenters if we could restrain ourselves for three quarters of an hour I am sure that would be appreciated by the witnesses.

Mr Sorbara: I just made a request for a videotape, that is all.

The Chair: Do you want to make that in the form of a motion, Mr Sorbara?

Interjections.

Mr Sorbara: You just cannot capture the true quality—

Mr Kormos: I will send you a transcript, Greg.

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TREVOR DAVIDSON

The Chair: We have Mr Davidson. I see you have been with us for a while. You have about a quarter of an hour, if you could divide that time please between your presentation and allow the committee members to ask some questions of you. Please start when you are ready, sir.

Mr Davidson: Chairman White and members of the standing committee on administration of justice, thank you for coming to Windsor to hear us out on the Sunday shopping issue. My name is Trevor Davidson and I am a very concerned citizen. I am here to say no to Sunday shopping but yes to a common pause day. I ask the question, why work seven days when the job can be done in six? This issue needs to be settled properly for the well-being of the future generation as it takes that long for governments to recognize the harm of a law that hurts instead of healing.

Sunday shopping affects the well-being of all families who make a living in the retail industry. Can you imagine families sitting down to Thanksgiving dinner with a member or two missing because they have to go to work to satisfy the needs of the inconsiderate? On two or three occasions the Windsor city council has tackled the question whether or not to allow Sunday shopping and over the past three years they recognized the need for a common pause day. In fact, they washed their hands of the Sunday shopping issue a couple of times and threw it back to Queen's Park. Now they are doing an about-face on it. Unfortunately, this year they gave in to the whimperings of some greedy store owners who want Sunday shopping and to steal a niche in the marketplace.

At the public meetings that Mr Lynd referred to, that were held in April and May of this year, there was a vast majority of delegates who spoke in favour of a common pause day. April's meeting attracted nine speakers and seven were in favour of a common pause day. May's meeting attracted 38 and 30, that is 30 of them, wanted a common pause day, and our council still voted for Sunday shopping. Incidentally, one of the councillors at the May meeting admitted to receiving over 300 letters from people requesting a common pause day and still voted for Sunday shopping. We, the ordinary voters of this community, are dismayed with this decision and wonder if our democratic society is crumbling. I hope we are fairly represented at this hearing and in parliament. Why do we have to work seven days when the job only takes six?

Sunday shopping means Sunday and holiday work, and most of us who work in the retail industry do not want to have to work Sundays. Those people who feel it is their right to shop on Sundays and holidays are not considering the rights of the people who have to open the doors, man the counters and cash registers. Allowing the retail businesses to extend openings on Sundays does not result in higher sales, more jobs, or better service for the consumer. Our store used to be closed on Monday and Tuesday nights. When we opened these nights our business was spread over a longer period of time and not one extra person was required to cover the additional hours. All we did was take two bites of the cherry. During the recent Sunday openings last fall, there were major cutbacks in the retail sector and many people were laid off or encouraged to leave. This is all the proof we need that Sunday openings do not create more jobs. Service to the customer also suffered a blow as there were fewer employees to cover the extended hours. So we ask why do we have seven days when the job can be done in six?

The author of a letter published in the Windsor Star said how he observed workers in his place of employment scrambling to work the Saturday and Sunday and could not understand why the retail employees were not following suit. The answer is that in his career he and his co-workers are being paid time and one half or double time whilst the retail professional has to, for the most part, be satisfied with regular time. In some cases full-time staff wages are docked two and three hours on Sundays, as it is a five-hour shift instead of the normal eight. So Sunday work for the retailer means that day becomes part of the normal five-day work week and not an opportunity to earn extra wages. Is it any wonder, we ask, "Why work seven days, when the job can be done in six?"

Presently, stores are open 63½ hours or more each week and this gives everyone ample time to shop. There is a major problem when someone complains that they have to work continually six days every week and Sunday is their only shopping day. Why work seven days when the job has been accomplished for decades in six?

I am not a lawyer but I have been told there are more holes in this amendment than in a calendar. Bill 115, subsection 4(1), states the council of a municipality can allow Sunday openings for the maintenance or the development of tourism. Surely every municipality, town, and city in Ontario could claim to allow Sunday shopping to maintain whatever tourist areas they have, no matter how small, and to further develop more tourist areas. The criteria set forth in Bill 115 that must be met before a municipality can declare itself a tourist area are much too broad and cover almost all aspects of retailing. Surely businesses that do not presently meet the criteria can very easily change their name or the way they merchandise to comply and open Sunday, an example being a drug store using a pharmaceutical name and selling everything from a needle to an anchor on Sundays. The same would also apply to Mac's, Becker's etc, and that affects the business of the supermarkets as well.

This is a shameful excuse to open Sundays and steal the business from companies who wish to be fair and ethical. It is only fair to do the work in six days instead of seven.

In section 11b, it spells out the rights of the employees with regard to Sunday working, but I do not see any guarantees for rights of the retail professional paid by commission. After all, they are like the small business people who are forced to open Sundays to protect their market share.

I am paid by commission only, and I refused to work on Sundays last year, resulting in the lowering of my wages. My right to having Sunday off as a common pause day and also the right to enjoy equal wages with my counterparts are no longer there, as I must now be at work to earn a living. I say there is no need to work seven days when I know the job can be done in six. I would like to relate to you how Sunday shopping affects my life.

My hobby is music, and I am a church organist. For years, choir practice was held midweek. It moved from one night to another as retail establishments gradually opened their doors night by night. With no nights free on a consistent basis, choir practice had to be moved to after the

11 am service on Sundays. If I have to work on Sundays, then my right has been taken away from me. If you ask anyone who feels it is necessary for a common pause day, they will all have similar experiences to tell. That is why six days is all it takes to do the job.

Now here are some reasons why we should have a common pause day. One, the money pie is just one size. Sunday openings do not magically add another slice. To highlight this point, the manager of one of our local chain stores said of a major competitor who stayed closed the first month of the latest Sunday openings: "They're the big guns in the city. When they open, that'll hurt the rest of us. Now the money will be split out there."

Two, keeping the doors to stores closed on Sundays will make content the retailer who feels someone else is getting a bit of his business. Three, having a common pause day for everyone allows us all to serve one another better. Four, it gives a day for the family to enjoy some normal activities. Five, after the Creator created the heavens and the earth and all that is therein, he rested. He also commanded us to rest and keep that day holy. Why is man so devious in trying to get around a law that is good for his soul as well as his body?

These are a few reasons why Sunday should be a day of rest. The new law regarding a common pause day should be a simple one, void of all the ands, ifs, buts, wherefores and therefore. Part of the NDP's mandate for the last election was a common pause day for Ontarians. I believe they got a lot of votes on this issue, which helped them get elected. I am now looking forward to a common pause day, the fulfilment of an election promise and doing my job scheduled from Monday to Saturday. Thank you.

Mr Sorbara: Well, Mr Davidson, I think you point out as eloquently as anyone one of the great defects in this legislation, that the government has said it wants to bring about a common pause day and then presents a bill which will allow basically any community of basically any size to open up virtually all the stores in the community under the tourism exemption. In fact, they refer to the common pause day in the legislation, but they do not define it. They do not say what they are trying to achieve. I can understand that, given the inconsistencies in the act.

I ask you, sir, what is your definition of a common pause day? What are you searching for, and what were you looking for from the government after it was elected and given the fact that it had promised a common pause day in Ontario under its administration?

Mr Davidson: A common pause day to me is just a common pause day.

Mr Sorbara: Is it most businesses closed or—

Mr Davidson: Most businesses should be closed on Sunday. It is not even necessary to have all the Mac's convenience stores and all the gas stations open on Sundays. There are about five small variety stores within about a mile of where I live. I live in the suburbs of Windsor. I do not know how they survive, but they are taking away business from the bigger stores. They could be put on a rotating basis. I recognize the fact that sometimes people do run out of milk and that sort of stuff and you have to

have some of the corner stores open, but not necessarily all of them.

Our downtown Windsor has nothing to offer as far as tourists go. You have tourist areas that are very clear, like Niagara Falls and maybe Grand Bend, that type of thing. Those are areas no one can dispute, but whenever we have areas like downtown, then we had the old town of Sandwich here in Windsor applying for the same exemption. We could also talk about the Ottawa Street merchants, who have a very nice street, as nice as downtown Windsor, and the whole thing just snowballs from one area to another.

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Mr Sorbara: Do you think this bill is going to bring about a common pause day in Windsor?

Mr Davidson: No, it is not. That is why I said it has to be void of all the ands, ifs, buts and sos and just be a straight bill to say no Sunday shopping.

Mr McLean: I have been opposed to Sunday shopping for many years. I probably would not have held my seat in the last election if my community did not know where I was coming from. I have been very strong on that. But the thing that really bothers me is the fact that we had a lot of people in the last election who ran their campaign on no Sunday shopping. They have said they are for the Agenda for People saying, "Elect us and we'll have a common pause day." Would you say the Premier lied to the people of Ontario or not?

Mr Davidson: I am waiting for the truth to come through. I know that was not the only issue, but it was a major issue in this area and I know it was a major issue with me. When I heard him saying he wanted a common pause day for Ontarians, I felt he was on side. This bill in its present form is not—

Mr McLean: It is not what he promised.

Mr Davidson: —going to satisfy my needs.

Mr McLean: Mine either. Thank you very much.

Mr Kormos: Well, sir, you have done something nobody has been able to do for three weeks. You have brought Mr McLean out of the bushes. Now we know he is on the side of a common pause day.

Mr McLean: But we do not know where it is with this legislation.

Mr Davidson: I say bless you and tell you that some of the things you have identified as weaknesses in this legislation are consistent with what a whole lot of other people have said—people like you and me who agree with the concept of a common pause day, and others who want Sunday shopping—issues like who regulates it and who controls it? Should it be the municipality, with the potential for checkerboarding across the province, or should it be a provincial body so that there is uniformity? And the loopholes: As people have said, you can drive a Mack truck through them, a Caterpillar tractor or a great big tractor-trailer.

Mr McLean: And a Corvette.

Mr Kormos: And a Corvette if you are wily enough. I and a whole lot of other people on this committee listened

to your comments with great interest. I am looking forward to the fruitful discussion I know people like Mr McLean will engage in now to try to beef up this legislation so that it achieves what so many of us want it to achieve: a common pause day for as many Ontarians as possible so we can develop family values and church values.

Mr Davidson: I feel it is a law that has to be administered from Queen's Park so that it is going to be equal for everyone throughout the province, because the way it is right now the Windsor council, as someone else has pointed out, has declared Windsor a tourist area. We have nothing really to offer as far as tourism. We do not have the natural beauty. We have Fords, Chryslers and the Detroit River and that is about it.

Mr Kormos: I believe that tourists are as impressed by our Sundays as they are by so many of our other qualities here in Ontario. The peacefulness on a Sunday impresses as many tourists as not.

CHRISTOPHER PRATT

The Chair: We now have a presentation from Rev Christopher Pratt from St John's Anglican Church. Rev Pratt, I have observed you have been with us for a while and you recognize that we have a quarter of an hour to divide as you wish. I am sure you will be tolerant of the frazzled nerves the committee members seem to be experiencing. Thank you very much for waiting for us, sir. We appreciate that.

Father Pratt: You will note that the covering page on my submission is to indicate the purpose of my submission, to encourage the standing committee on administration of justice to repeal section 4 of Bill 115.

Members of the committee, I value the opportunity of appearing before you today to address the proposed legislation referred to as Bill 115. This act to amend the Retail Business Holidays Act will have an impact of the lives of many individuals and families who will look to it as a means by which the values and traditions of time spent with families and participating in religious worship will be safeguarded. All citizens of the province of Ontario will be able to benefit from this legislation; or will they?

At the present moment, the Retail Business Holidays Act allows, in section 4, for the council of a municipality to enact bylaws which may permit retail establishments to be open on any holiday, or may require that retail establishments be closed on any holiday. The lengthy rewriting of section 4 in the proposed legislation allows for a variety of loopholes to be discovered by retailers and municipalities alike, who will search for any means possible to evade the spirit of the proposed legislation.

With the potential for a great degree of variance in the application of Bill 115 across Ontario, the aim of this legislation will be diluted and destroyed. In the first throne speech of the present government, the statement was made that the government intended to "provide for a common pause day to help strengthen family and community life while protecting small business and the rights of workers."

On April 8 of this year, an open meeting was held in Windsor city hall council chambers on the issue of Sunday shopping. A large number of individuals, groups and

businesses voiced their opinion on this matter. An overwhelming majority indicated their support for the enforcement of the Retail Business Holidays Act and a curb on open Sunday shopping. A member of city council expressed the fact that he was unable to endorse the views of those present because of his concern that many members of the community of Windsor were not able to be present at the meeting. He felt compelled to use his vote to give expression to the views of what he believed to be a silent majority.

I invite the members of the committee to eliminate this situation from future discussions by reviewing section 4 of Bill 115. I ask the committee to act decisively and strike section 4, dealing with municipal powers from Bill 115. In doing so, this committee will allow for a provincial common pause day law that can and will be applied equally in all municipalities and that can and will be enforced effectively across Ontario.

After making this plea before you, I would also like to take this opportunity to endorse the presentation of the Fairness for Families coalition, which will be appearing before you in Toronto on August 29. This group has been working with representatives from the business community as well as churches, citizen groups, retail associations and trade unions. Their detailed review of Bill 115 is worthy of your in-depth study. Thank you for this opportunity to come before you and voice these concerns.

Mr Sorbara: Rev Pratt, as you know, people of the Jewish faith have been able to maintain a holy Sabbath on Saturdays, I guess throughout the North American continent, without the intervention of the state to require stores to close or to require businesses to close. I think if we would review the history of the Jewish faith, they have done that quite successfully. Do you not believe that in Ontario it is possible for those of the Christian faith to maintain a common pause day or a holy day or a Sabbath on Sunday without the intervention of the state?

Father Pratt: I would hope it would be. Unfortunately, it seems not to be the case. In a presentation that was made to Windsor city council, the Fairness for Families group stated that they would hope that the coalition and those who were interested in supporting them, would work to prevent the erosion of the act by the adoption and enforcement of bylaws by the city that protect both the retailers and the retail employees human rights to observe Sundays and other public holidays with appropriate protection for all religious groups. For example, store owners who, for religious reasons, close their stores on Saturdays could be allowed to open their stores on Sundays.

It seems to me that we have reached the point where everyone feels the need to have their rights spelled out in a legislative manner. Where those particular working arrangements were almost taken for granted in years gone by, these days, people want to have their rights spelled out in law.

Mr Sorbara: Yet people of the Jewish faith have not tried to convince governments of the necessity to require that the pause advocated by the government be extended to Saturday. If they have advocated, they have advocated that

those who do choose to voluntarily close their stores on Saturday for religious reasons, simply be allowed to open their stores on Sundays so that they can respond to a natural market that evolved.

Why is it that we need to use the power of the state to bring about an observance of Sunday when we do not need to use the power of the state to bring about an observance of Saturday among the people of the Jewish faith or, for that matter, the power of the state to bring about the observance of Friday respecting Muslim traditions which are significant if still in a minority in Ontario?

Father Pratt: There is no question there are a multitude of religious beliefs held by residents of Ontario and that is why, I think, the phrase "common pause day" is most appropriate because it covers all of those particular backgrounds. It seems to me that the option for observing a particular common pause day in a retail outlet would be something that the members of that working group would be able to establish under the proposed Bill 115 and do so with some amount of freedom.

Mr Carr: Thank you very much for your presentation. As I was reading it, I was interested to note that most of the criticism seems to be going towards Windsor city council. I suspect that is the Premier's strategy. In fact, he could have prevented all this if he had wanted to and said, "We are going to legislate a common pause day," as he said during the election campaign, and eliminate this internal bickering.

It is interesting that most of the people who have come here and who are critical have talked about what Windsor council has done. So, I guess what the Premier has done by giving it over to them has in fact worked because what happens is a lot of the—I will not use the word "anger"—but the criticism gets shared. I noticed that you did criticize some of the provisions, but the people focus on the city council.

The city council members are the ones who had this thrust upon them. I was just wondering why, in your particular position here, there is not more criticism of the Premier of the province of Ontario who said a year ago, "We are going to have a common pause day," and then as a result of this legislation, has not followed through. Why is the criticism not of him?

Father Pratt: I think one of the very important things that has happened because of that particular action has been the ability for people to be placed in a public forum where they feel they really can be heard and where they really can make a difference. To have a committee such as this come from the provincial level into the community is not something that happens on a regular basis. But to be able to go before city council, where people we know and relate to on a regular basis as councillor representatives of our own particular home areas are making decisions which affect us, certainly has been able to stir up members of the community to go to that location to make a presentation to hope that the message would get through.

When the response has been as it has been, then I think one of the things that you have seen here today is the fact that people have been empowered and enabled to come to

this particular group and say, "Look, maybe our voices weren't heard or our concerns weren't heard at this particular level, but we want you to hear what we are thinking," because the expectation from the community as a whole, residents and councillors alike, is that leadership needs to be shown at the provincial level, and responsibility needs to be taken at the provincial level. If that is where everyone is looking, that is where we would like to see the leadership.

Mr Carr: If, in fact, there are no changes to the bill, and you are very clear on the last page what you would like to see, but if, in fact, there are no changes and Bill 115 goes through as it is proposed now, do you think there will be more criticism towards the—because remember, we are at the stage where we are, and I am speaking for the government now, listening to people and so on, but if it does not change, do you think more of the anger will focus on the Premier of this province?

Father Pratt: I think one of the things that is going to happen is that people will take opportunity of every advantage to hold elected representatives responsible for their actions, of no matter what party, and I think that is one of the things that is vitally important in discussing this particular issue. Whether we vocally say we are for something or against something, elected representatives have the opportunity to make the final decisions and to cast the votes, and that is what people are being really woken up to by this particular issue because it touches the life of their family and their community in a very important kind of way, and they are responding to that.

Mr Fletcher: It is a day for confessions, I know.

Father Pratt: I am glad to hear it.

Mr Fletcher: And I am going to confess that I am definitely against Sunday shopping, and part of my campaign was on opposing Sunday shopping; Sunday working is what I prefer to call it. As far as this legislation is concerned—

Mr Poirier: Rev Fletcher.

Mr Fletcher: Thanks. What we are trying to do is strike a balance, and perhaps we have not struck that balance yet. There are going to definitely probably have to be some revisions. You talk about section 4 that has to be struck, the municipal option part of it, the municipal powers of Bill 115, the first exemption part of it. As far as what we have heard from some of the business people who work in the tourist area, how would you see us striking that balance? I do not want you to do my job for me. I know that is on my shoulders, but I am just asking for guidance, and I guess I am coming to the right place, too sometimes.

Father Pratt: One would hope that from the provincial perspective you would be able to look across the province and without local community banner waving you might be able to discern those communities that would have a legitimate claim on being a tourist attraction. It would hopefully be helpful for you to do that because then the municipalities would be perhaps challenged to do something creative in their communities if they are going

to pursue the tourism option, to do something that would be worth while, to do something that would stimulate the life of their community.

There was mention earlier in the last presentation of the old town of Sandwich. Many of you perhaps would quake in your boots in terms of being able to come to Windsor and see it as being the end of the province of Ontario. Here we view it as the beginning of the province of Ontario. You are within a few kilometres of the oldest European community in Canada west of Montreal. There are all kinds of legitimate tourism options that we can wave in your faces as being tourism centres, but it also means that the community has to do its homework and have a good, solid presentation of something that is worth while and something that will be of benefit to the local community and to the province in terms of filling in the guidelines which are there.

1630

Mr Fletcher: On that point, that would mean that the municipalities would be going to Queen's Park, to the politicians, and saying, "We think we should be able to open because we fit this criterion." But before they do that, it has to be the community that decides. I am trying to envision something. Would it be plebiscites, would it be town meetings, would it be the people saying, "Well, yes, we agree with what you are saying partly"? As you said, you were at a city council meeting and a majority of the people were saying, "No, we don't want it." Yet city council went ahead and did it. I have read from the press what you said, how disappointed you were. Yet, again, that is still going to be open. If the city is being lobbied by the business community, "We want to open on Sunday." We have something like the West Edmonton Mall opening up in Windsor, say, and that is a tourist area, and yet you and your group of people saying, "No, we don't think so," and you go to city council. City council is swayed. It comes to Queen's Park and we are supposed to decide that yes, what you are saying is right.

Father Pratt: But look at the process. What you have done essentially is you have gotten people involved in the life of their community. What you have done is you have gotten people excited about some potential in their community, and what you have done is you have gotten people working for the benefit of their community. If you are saying, "Don't come to us until you have done your homework," then you are putting a great deal on the people of the community to do something of benefit to their community. If they can do that within the guidelines of the legislation as it is provided, then you will be doing something worth while for the province of Ontario.

ROBERT ANDREW

The Chair: We now have a presentation from Robert Andrew. Mr Andrew, we have about a quarter of an hour. If you could divide that between your presentation and some time for the committee members to pose questions to you.

Mr Andrew: Thank you for having me here to speak; I appreciate the opportunity. I would like to say I

am opposed to retail activity on Sundays and holidays. After reviewing the proposed legislation, Bill 115, I can find no assurance that it will promote a common pause day in Ontario. This bill provides the opportunity for any municipality to allow unrestricted retail activity any day of the year. The advent of unrestricted retail activity in Ontario is the end of a healthy social tradition for all citizens of Ontario.

Retail workers are the most immediately affected by this proposed change, but it will eventually change the social and family life of all Ontarians. Demands of unrestricted retail activity will spread to other occupations and professions, creating just another work day for everyone.

In the last year, full-time employment in Canada has fallen 3.9% while part-time employment has risen 11.8%. It appears that more and more people are being forced to depend on multiple part-time jobs for income. With unrestricted retail activity, these people are faced with the reality of a seven-day work week without rest.

To say a worker is protected by a right to refuse is unrealistic. They can be subjected to a host of abuses by an employer as well as peer pressure from fellow workers who reluctantly work Sundays and holidays.

In Windsor we have had numerous retailers opening illegally due to an apparent lack of law enforcement. If these retailers have no respect for the Retail Business Holidays Act, why would they have any more respect for the Employment Standards Act? And why would an employee feel he could safely refuse to work when an employer is allowed to continually open illegally?

I have included with my submission an article from the Windsor Star newspaper, dated July 20, 1991. The article reports that a retail worker was fired in July of 1990 for refusing Sunday work. Only recently did she receive a ruling in her favour from the Ministry of Labour. She has been unable to find work since her termination. The only way to protect the worker is to keep the stores closed on Sundays and holidays.

My recommendations: Ideally, introduce legislation similar to the Lord's Day Act; if the legislation resembles Bill 115, then no powers to the municipalities; no major retail activity on statutory holidays; stiffer fines that guarantee it will not be profitable to open illegally; more stringent tourism exemption, and only allow it where it can be proven a viable major tourist industry presently exists; provisions to guarantee that the law will be enforced regardless of the attitude of local officials.

The Chair: Thank you very much, Mr Andrew. Unfortunately I believe our written copy of Mr Andrew's presentation is in Toronto, and it will be circulated as soon as is possible, probably on Thursday when we are in Toronto.

Mr Daigeler: Not so much a question as a comment: I think you and the previous witness rightfully pointed out the very serious shortcoming of this present legislation when you look at the avowed purpose the government is putting forward. They have been making a lot of statements about the need to expand the common pause day but, as you have pointed out, the exemptions being provided are extremely wide and the way I look at it will certainly more or less come to the same conclusion that the

Liberal legislation had arrived at, letting the local areas decide on their own. Quite frankly, a lot of witnesses have said that is the best way to go.

I would like to say I agree with you that this legislation certainly does not achieve the purpose the NDP has set out for itself, and if they were really serious about putting in place a common pause day they should do what you are suggesting.

The Chair: Would you like to respond to that?

Mr Andrew: No, it was just a comment.

Mr Sorbara: You mentioned in your submission that there should be no—I think I am quoting—"major commercial activity on Sunday."

Mr Andrew: Yes, major retail activity.

Mr Sorbara: Major retail activity. If you were setting the standards, what stores, if any, would you allow to open on Sunday?

Mr Andrew: What I had said was something similar—ideally, I would like to see something similar to the Lord's Day Act—

Mr Sorbara: I cannot remember what was open and closed in the Lord's Day Act.

Mr Andrew: I believe there were convenience stores and there was a limited square footage and the number of employees was limited to three. That is what I would like to see.

Mr Sorbara: So you could sell anything so long as you were small enough—

Mr Andrew: I am not saying sell anything, but just decide who is going to open first.

Mr Carr: Thank you for your presentation. As you know, the government said this legislation will give a common pause day to the province. There are many opposed to Sunday shopping who say that will not happen. What is your best guess what we are going to see a year from now in this province if this legislation goes through unamended?

Mr Andrew: If it goes through the way it is now?

Mr Carr: Yes.

Mr Andrew: I feel it is eventually going to be a common workday in Ontario if we stay with this legislation the way it is now. It will be another day of the week. Maybe not right now, but within a generation it will be like any other day of the week. That is what I am trying to prevent by being here.

Mr Carr: With the best case of what you would like to see, and I may have missed this, you want to see it remain a provincial responsibility so that—

Mr Andrew: Yes, no powers to municipalities. You have heard our stories about Windsor and our city council, it just does not work.

Mr McLean: That area of jurisdiction really concerns me because we all heard we wanted to establish a common pause day. Nobody has seen anywhere in this legislation where there is going to be a common pause day. The city of Windsor had a bylaw with two readings. The government wrote them a letter and indicated that they were bringing their legislation forward which they probably

figured was going to determine how Sunday shopping took place in Ontario, which really did not happen, so they went ahead and passed their bylaw. The confusion is the fact that there was a commitment made for a common pause day in this province, and that commitment has not been fulfilled. Do you think he will fulfil his commitment?

Mr Andrew: It is not solved yet. We have public meetings so we still have to give him a chance. As far as the city council being confused as to what the provincial government wanted, they came out and told them that the spirit of the legislation they wanted was a common pause day and it was to be restricted to tourist areas. It did not matter what the legislation was going to be, our city council wanted Sunday shopping in Windsor, wide open, and the mayor said so right after the day that legislation was published. He said we are going to have wide-open shopping in Windsor, and after the numerous delegations that went to council and told them, "We don't want it," they still went ahead with it.

Do not tell me the silent majority counts for something. You have a chance to speak. This public meeting is here today. The public meeting was at city council. Do not tell me the day after that the silent majority rules.

1640

Mr McLean: But if the province had brought in the common pause day legislation that bylaw would not have taken place.

Mr Andrew: I do not know. I was at every city hall meeting and the majority of people that spoke at those meetings were against it. Each time the majority was against it. The majority of council was against it initially and now they have turned around. I do not know what turned them around, but now they are the other way and they are not listening to people any more.

Mr McLean: Do you think a referendum would be good?

Mr Andrew: I suggested a referendum myself and it was turned down too.

Mr Morrow: I want to thank you very much for participating in what we are doing here today. We will be taking your recommendations back to Toronto. That is part of the whole process. We are here to listen to you and everybody else that has been presenting. Do you feel any retail worker should have the absolute right to refuse to work on a Sunday?

Mr Andrew: I feel the store should be closed. As far as saying you have a right to refuse, forget it. It is not going to work. You are not going to—you have other laws in Ontario that are supposed to protect workers and they just do not work. You have a law in Ontario that says 48 hours a week is the maximum you can work. I work at a company where they tell me how many hours I am going to work and that is it. Fifty-five hours a week and that is what you are scheduled. Do not say you are not going to work or you might not be there the next time, or the next time there is a possibility of an increase in your wages or a promotion they pass you over. Sure, you can say you are

protected by a law, then you can stay in that position for the rest of your life.

Mr Morrow: You bring up a very interesting point of intimidation and things like that. I want to thank you very much for your fine presentation.

Mr Andrew: Mr Kormos, you have my support on auto insurance. That is our next fight.

The Chair: Gentlemen, we have a change in our schedule. The presentation from the town of Goderich has been cancelled, or they have decided not to present. So our first presentation will be at 9:30 tomorrow with the presentation from the city of London. Before we adjourn, Mr Mills has a clarification of some form.

Mr Mills: Thank you, Mr Chair. It is not a clarification but I keep hearing Mr Sorbara asking me, "What is a common pause day?" He wants me to clarify common pause day.

Mr Sorbara: What is it?

Mr Mills: I am not going to clarify what a common pause day is, but I am going to tell you what the act says and surely to goodness that is as plain as day. Subsection 4(2), "The council in passing a bylaw under subsection (1) shall take into account the principle that holidays should be maintained as common pause days." Right, that is the principle.

Then we go to the Retail Business Holidays Act and it says, "In this Act, holiday means New Year's Day, Good Friday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day, Christmas Day," the 26th day of December, "Sunday and any other public holiday declared by proclamation of the Lieutenant Governor." If that is not the definition of a common pause day, I need to be enlightened further.

Mr Sorbara: Let me thank Mr Mills for pointing that out. I have already read those sections of the act and I appreciate that subsection 4(2) refers to those days, those holidays. If you will go, sir, to the second line of the section that you quoted it says, "take into account...that holidays." Now "holidays" is a defined term. Holidays means those days that you listed and Sundays and any other day defined by the act. That is a legal definition of holidays.

What I am concerned about is that there is no definition of the phrase "common pause day." If you will check with legal counsel you will know that often when governments present legislation of this sort they give legal significance to phrases like common pause days so that counsel, when they are trying to maintain holidays as common pause days, will have some sort of direction.

The deficiency I see in the act is that you do not offer in the act any specifics as to what qualities the common pause must have. We know what days we are talking about. There is no disagreement about that. You point out correctly that the days themselves are defined in the act. What is not defined is the phrase "common pause." I would suggest to you, and the request for information is, that the ministry provide us with a working definition of the phrase "common pause." That will help us in our deliberations and I submit to you, sir, will help councils as well,

once this bill is passed, in achieving the objectives the government wants to achieve.

We have had a lot of discussion about what individual deputants think about the common pause day. I think it is time now that the government put its definition on the table and hopefully incorporated that in the act before it is passed.

The Chair: I want to thank you for bringing that to Mr Mills's attention. I think it is an excellent point.

Mr Sorbara: Could I get an assurance that the government either will respond with a working definition or say that they are not prepared to respond.

Mr Mills: I think the best place for that discussion is when we do clause-by-clause.

Mr Sorbara: But if we had something before we get into clause-by-clause, we could have a better—if the government wants to say, "Sorry, we do not want to provide a working definition," I accept that. I am just putting in the request for the information.

The Chair: I think it is very helpful, though, Greg, for us to have your advice on those points now so that perhaps the Solicitor General can respond in time.

Mr Sorbara: Can I also just reiterate my request for an answer from the ministry as to whether they would consider a friendly amendment and supporting a friendly amendment to get Windsor—

Interjection.

Mr Sorbara: I will during clause-by-clause, but if we could know beforehand—

The Chair: We have had that question already, I think. Mr Mills, you will endeavour to respond to that? Thank you. We are adjourned.

Mr Morrow: Point of order, please, Mr Chair: Can we please thank the city of Windsor for their fine facilities?

The Chair: My apologies, Mr Morrow. Before adjourning, I would like to thank the city of Windsor for their hospitality and, of course, all of the witnesses who have put up with the noise and have done an excellent job with their presentations today. Thank you all very much.

The committee adjourned at 1647.

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Official Report of Debates (Hansard)

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Journal des débats (Hansard)

Le mardi 27 août 1991



Standing committee on administration of justice

Retail Business Establishments
Statute Law Amendment Act, 1991

Comité permanent de l'administration de la justice

Loi de 1991 modifiant des lois
en ce qui concerne
les établissements de commerce
de détail

Chair: Drummond White
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Tuesday 27 August 1991

The committee met at 0934 in the Sheraton Armouries Hotel, London.

RETAIL BUSINESS ESTABLISHMENTS STATUTE LAW AMENDMENT ACT, 1991

LOI DE 1991 MODIFIANT DES LOIS EN CE QUI CONCERNE LES ÉTABLISSEMENTS DE COMMERCE DE DÉTAIL

Resuming consideration of Bill 115, An Act to amend the Retail Business Holidays Act and the Employment Standards Act in respect of the opening of retail business establishments and employment in them.

Reprise de l'étude du projet de loi 115, Loi modifiant la Loi sur les jours fériés dans le commerce de détail et la Loi sur les normes d'emploi en ce qui concerne l'ouverture des établissements de commerce de détail et l'emploi dans ces établissements.

CITY OF LONDON

The Chair: I call this meeting to order. Identify yourselves when you first speak and proceed when you are comfortable. We have approximately half an hour.

Mr Gosnell: I am Mayor Tom Gosnell and joining me is Deputy Mayor Jack Burghardt. Members of the committee, I would like to take this opportunity to thank you for visiting our city today to receive input on this very important issue.

Holiday shopping and the designation of tourist areas have the potential to make a major impact on family and business life as we know it today. I trust that the perspective you receive today from local government and the private sector will be of great assistance in formulating the province's development of future legislation.

The issue of Sunday shopping has been on the agenda for well over a decade, with greater prominence in the last four years. From a historical perspective, I should point out that in August 1988 I led a delegation that appeared before the standing committee on administration of justice. Our position at that time is unchanged: the city of London considers that the responsibility of enacting municipal by-laws governing retail stores opening on Sundays and holidays should remain with the provincial government rather than the municipalities.

London city council is also on record as not endorsing this issue being the subject of a referendum on the municipal ballot in this or any subsequent November election. Because council unanimously supported the motion that the Sunday shopping legislation be a provincial matter, council believes that holding a referendum would be contrary to that motion.

The Association of Municipalities of Ontario told the standing committee on administration of justice in 1987 that we have witnessed the transfer of a complex and socially divisive issue by an indecisive provincial government

under the guise of municipal autonomy. That has not changed under this new proposed legislation and still leaves municipalities shouldering the load.

Mr Burghardt: Since the presentation to which the mayor referred, the province and each municipality have experienced wide-open Sunday shopping. We have no hard data to support our observations, but for the most part it appeared that consumer demand dictated whether retailers chose to open or close their doors. Perhaps one of the better observations about opening on Sunday was made by the manager of one of London's largest shopping centres, Mr Bob Usher from White Oaks Mall, which opened on Sundays to hold its market share. Mr Usher says the day someone can convince him that by opening one extra day each week consumers will miraculously have more money to spend, he will be an advocate of Sunday shopping.

During the period of wide-open Sunday shopping over several months in 1990 and 1991, the majority of traditional Monday to Saturday retailers did not open their doors. In fact, in many suburban shopping centres the large anchors discovered that the consumer traffic did not warrant the extra operational overhead. That was also the case for many smaller retailers. In the core, the majority of independents did not open, and in the city's major downtown shopping mall, Galleria, you found more locked doors and dark stores than retailers who were open for business.

The same could not be said for supermarkets and specialty retailers like Canadian Tire stores. In those instances it is our observation that consumers did avail themselves of Sunday openings. But the big question remains: Did it mean increased business or simply a spreading of dollars spent over seven rather than six days? Those answers can only come from the retailers.

As part of our lengthy debates at council regarding Sunday openings, the city has also expressed great concern about the human factor. Many individuals employed in the service and retail sector who would be most affected by Sunday openings will be in need of increased levels of public transit and day care support. The availability of public transit on Sunday is greatly diminished as the publicly funded bus system works on a reduced schedule. Many traditional day care facilities that receive municipal subsidies are not open on Sunday. The ripple effect on the community as a whole could be devastating from a personal and a financial standpoint. The human factor must not be ignored.

It is our clear understanding that the proposed legislation will amend the Retail Business Holidays Act and the Employment Standards Act.

In a statement made to the Legislature by former Solicitor General Mike Farnan it was indicated that the rights of workers who refused to work on Sundays would be protected. Let me suggest to you in all sincerity that employers who choose to open on Sundays would simply skirt this

legislation through hiring practices for new employees that included a stipulation of understanding that Sunday was a regular day of work. And let me also suggest with all due respect that the province, through the courts or intervention by employment standards officers, would spend hundreds, if not thousands, of hours arbitrating cases of abuse or misunderstandings launched by both employees and employers.

0940

Mr Gosnell: Without firm direction from Queen's Park, the city of London is also concerned about the city-to-city, municipality-by-municipality ad hoc decision-making regarding Sunday openings with respect to so-called tourist areas.

The Minister of Tourism and Recreation, Peter North, told the Legislature in June of this year that "the legislation strikes a balance in recognizing the need for a common pause day for Ontario while acknowledging the impact of tourism in many communities throughout the province, as well as the role tourism and the leisure industries play in helping Ontarians enjoy a common day of rest." The minister went on to say that "the proposed legislation would enable local tourism industries to grow and work productively with their municipalities." In its purest state, the proposed legislation may have that impact but, as a municipal councillor, the practicality of designating one as a tourism venue while ignoring others skews the free market system and strikes an unfair balance in an already fragile retail industry.

To our west and southwest we have already seen the cities of Windsor and Sarnia declare themselves wide-open for Sunday shopping under the guise of tourist areas. While our neighbours face the unique challenges of being border cities, it demonstrates that under the present vacuum of provincial leadership municipalities must devise creative methods of working around a cumbersome situation. With this type of activity, municipalities that may not support the concept of Sunday openings may be forced to follow suit to protect retailers who see their market share eroded by neighbouring communities that are using Sunday openings as an economic development marketing tool.

It is the city of London's position that Sunday shopping is not a panacea for cross-border shopping. It has been demonstrated in several consumer surveys that consumers are looking for bottom-line prices for quality goods. Simply opening doors of retail outlets in Ontario will not solve that challenge.

In conclusion, London city council believes this issue should be resolved with all due expediency. The debate has raged for almost five years. The government of the day, through this proposed legislation, and your predecessors both proposed laws that would see civic governments faced with being the final arbitrators. London city council is on record as supporting a common pause day but one that is administered by strong province-wide legislation, not open to vague or wildly diverse applications by over 700 municipalities in Ontario.

Mr Poirier: Thank you, gentlemen, for your presentation. How would you feel about a description of London as a tourist destination?

Mr Gosnell: I think tourism and convention business is about a \$250-million to \$300-million-a-year investment in this community, so it is important, as it is with all communities.

Mr Poirier: Right.

Mr Gosnell: It is important to all communities, but it would be very difficult for us to say that Richmond Road in London or parts of our downtown or parts of Centretown in the east end would be the designated area. That is the problem Windsor and Sarnia found themselves in and why they went wide-open across the city with the designation of tourist centre.

Mr Poirier: How have you resolved the issue of merchants that see themselves as a tourism type of business for Sundays? Has that been a pressure?

Mr Gosnell: Well, some stores are open now. I am not sure that Canadian Tire, for example, or A&P and Loblaw's would put themselves down as a tourist industry. The dilemma we find as municipal councillors is that many of the large local industries are clearly not tourist industries, but you cannot say that the tourists might not come into Canadian Tire or A&P.

Mr Poirier: Depending on the season.

Mr Gosnell: There is enough discretion in many of the retail outlets now that do allow for some Sunday shopping in a very minor way, as you know, with the legislation that is now in place.

Mr Poirier: Obviously you do not feel that London should designate itself entirely as a tourist section, but how will you resolve that issue for your tourism sector? What do you see with the present law? Will that cause you a headache?

Mr Gosnell: It causes a great headache, not so much as it relates to what we do but what the neighbouring municipalities around us do. As you heard in the debate back a few years ago, our concern is that if Sarnia, Windsor, St Thomas, Chatham, Woodstock and Kitchener-Waterloo decided to go for wide-open Sunday shopping under the guise of tourist areas, it will put incredible pressure on the retailers of our city, forcing us to protect our retail base by doing the same. We would in fact be a Sunday shopping area whether we wanted to be or not because we would be forced into it to protect that retail base.

Mr Poirier: Last question. How would you think the provincial government's capability of helping you in that department would be? I know you said you would like to see provincial designation, but how do you want the provincial government to help make sure other communities around you do not have wide-open Sunday shopping so that you do not feel the pressure of it?

Mr Burghardt: The province has to be strong in whatever legislation it passes. It is our feeling you cannot leave it up to the individual municipality. That is the problem.

We have not had pressure put on us as a council from individual retailers to say, "Look, we feel that we are a tourist business and we should be open." We have not felt that pressure. In fact, it has been quite the contrary. The chamber of commerce, which represents small and large

businesses, as you are well aware, presented a brief to us. They took a survey a couple of years ago and that survey and their brief to us said they are opposed to wide-open Sunday shopping. We followed that. We have heard from labour groups the same way and we have responded to that type of pressure. That is the type of pressure we have had put on us.

Mr Daigeler: Thank you for appearing before us. We are obviously aware that the Sunday shopping question is a major concern in the London area since our friendly colleague here, Dianne Cunningham, owes at least the beginnings of her political career to the Sunday shopping debate. I am looking forward to hearing her reaction later on and how she harmonized that with the current position of the Progressive Conservative Party.

In any case, I have a couple of comments with regard to your brief. First of all, I presume the parliamentary assistant will be clarifying whether in fact it would be possible, as you state, for employers to skirt the legislation through hiring practices that included a stipulation to work on Sunday. It would be my understanding that would not be possible. I would expect the parliamentary assistant to clarify that.

Second, you are making reference in your brief to the possibility that hundreds, even thousands, of hours could be spent arbitrating cases in trying to figure out who is allowed or who is not allowed to work on Sundays. The reality, however, is quite different. We have had, in response to our request from the Ministry of Labour, information that there have been up to now only 16 complaints filed with the employment standards branch of the Ministry of Labour under the current bill. Really, I do not think there is a stampede in that regard. In fact, of those, there are only two cases pending, so I do not think one could really talk in any way, shape or form of thousands of hours possibly being spent on arbitrating cases on this matter.

My main question though is, you are describing what happened when the Sunday shopping legislation was in limbo and you said that most of the stores, in fact, stayed closed. Would you not agree that the reality of what happened lends weight to those who say, "Let business decide"? If they find it is profitable, they will stay open. If they find it is not profitable, as obviously happened in London, they will stay closed. Is that not the best way to do it, and it will really work itself out?

0950

Mr Burghardt: I would disagree with that premise, with all due respect, because many of the smaller retailers found that eventually they probably would have to open.

Mr Daigeler: But they did not.

Mr Burghardt: They did not, but eventually they would.

Mr Daigeler: It is speculation. You would agree on that.

Mr Burghardt: No, but they did not open. One retailer in particular, whose head office is here in London and who operates about 40 jewellery stores in the province and elsewhere across the country, but mainly in Ontario, said he could not afford to open on Sunday because most of his stores are staffed by two or three people at the most.

Mr Daigeler: So he stayed closed?

Mr Burghardt: He stayed closed, but he said that if this continues and the large anchors in the major shopping malls decide to stay open, then he is going to be forced to open, and at what cost? He was totally against Sunday shopping.

Mr Daigeler: My point is, and we heard this in many parts of the province, that people expressed the fear you just expressed, but the reality is that it did not happen. We have had that experience, and many retailers told us that really the initial fear has waned and they no longer have that. At least that is what we have heard in other parts of the province. While I can certainly sympathize with that fear, it is speculation. It is not what was corroborated by the experience we have had.

Mr Gosnell: If I can just jump in there, I think part of the problem is that the period of limbo did not last long enough for a true assessment to be done by anybody. You pointed out that only 16 cases have gone through under the Employment Standards Act to make sure that people were not unfairly treated. It does not take an employer too long to know that half his staff is more prepared to work on Sunday than the other. If you are going to be cutting back on work-force, you know who gets cut first. We have heard many of those complaints. The employer knows that if he has to have trained staff, he wants as much flexibility as possible, and he or she knows who the flexible employees will be.

Mr Carr: Just so you know, in our travels it is very clear that there are going to be large parts of this province that are going to be open. Collingwood has already said it is going to take the tourism exemption, the Sault, Thunder Bay, Kenora, and you know about Windsor and Sarnia. In fairness, there are some that are not—North Bay and Sudbury said they will not. What they are going to be doing is taking the tourism exemption and, as a result, opening up the entire town.

Some of the unions that have come through have said that the Premier, in spite of the fact that he said this legislation would give a common pause day, has called those tourism exemptions a joke. In fact, yesterday we heard that they were big enough to drive a Mack truck through.

With regard to the commitment that was made a year ago during the campaign, the Premier said there will be a common pause day. Very clearly, there will not. A year from now, from what we heard from the municipalities, they are going to take this tourism exemption, and I suspect there will be at least 60%, probably 70%. What a lot of people who are opposed to Sunday shopping are saying is that the Premier broke his commitment. I was just wondering if you could comment, based on what was promised in the election campaign, whether in fact you believe the Premier broke his commitment to the people of this province.

Mr Gosnell: I think you are asking us to get a little partisan there.

Mr Carr: As a politician you would never do that.

Mr Gosnell: That is the wonderful part of being on municipal council—we get to talk to all three parties the same way.

Mr Burghardt: Different parties too.

Mr Gosnell: If I can go back to what you said earlier, I think it is important to recognize that the Legislature should be offended that entire cities say they are designated tourist areas. Can you imagine that every part of Windsor, every part of Sarnia, is a designated tourist area? That is a joke, and it makes a joke of the legislation.

That is why, if it is going to be flouted to the extent it is, we are saying that the province, with great respect, has to show some leadership, has to set up criteria that clearly define what a tourist area is, if it is going to be part of the legislation. You cannot just say to our friends in Windsor and Sarnia, "Go ahead and declare your entire area as a tourist designation." That is nonsense. The Legislature knows that, the public knows that, and the impacts are going to be very profound and they are going to affect surrounding municipalities.

If every car dealership, every appliance store is open on Sundays, it is going to impact our ability to compete in our area. One thing that members of the Legislature should keep in mind, as our deputy mayor pointed out, is that the cost of doing business on Sunday is not just to the person who is doing the shopping or to the local government; you have to pay a great number of bills that are going to be incurred because of Sunday shopping. When we run our public transit authorities, when we run our police departments, our fire departments, when we have more activity in terms of government services, the province, through its transfer payments, pays a great deal of that money, especially for public transit, day care and other issues.

So Sunday shopping is very expensive to the Legislature, it is expensive to local government and, as we have pointed out, there is nothing we have seen yet that says shoppers will spend more in Ontario because it is open seven days rather than six. So you are in fact increasing your overhead, you are increasing government expenditures and you are already putting even more of a burden on an already pressed retail industry.

Mrs Cunningham: It is interesting for me to be here today and to listen to my colleague. About two or three summers ago when we sat on this committee around the province we had one of the Liberal members from London, Joan Smith. When she was on the same council she was very much opposed to the municipal option, so the citizens of London certainly elected somebody who was opposed to the municipal option, who then became in favour of it.

Mr Daigeler: What is your party standing now?

Mrs Cunningham: Party standing? My understanding is you do not have a stand, and neither do we. Not one of us should have a stand. That is why we have these public hearings, to hear from the public, to change the legislation that is proposed. I have been told by the Liberals that they do not have a stand, that they are out to listen, and certainly that is our party's position—

Mr Daigeler: We certainly do have a stand: municipal option.

Mrs Cunningham: —and that is on the record right now. Individuals may have a stand; even our leader may

have a stand. My colleague to my right has a stand. Mine happens to be different because I happen to represent this municipality and I will always take my position from the electorate in London as long as I can find one. We do not have a lot of clear positions; on this one we do. It is my job and my responsibility, to listen to the people who have elected me through the municipal council, and that is why I did take a very strong stand against Sunday shopping. Personally, as a family person, I am against Sunday shopping.

I would like the mayor or the deputy mayor to respond to this. I think there is a good model for Ontario in the province of New Brunswick, where at least they have taken a stand. I think a government should say "wide-open Sunday shopping or no Sunday shopping," and take a clear stand. This law as presented now does not take a clear stand. New Brunswick, in fact, has a law that says that tourist areas shall be designated by the province. Municipalities have to present to the province.

It was a position that both the NDP and the Conservatives took during the last round of hearings. We asked the public how it felt about that. But at least there was a clear position and clearly the responsibility for legislating store hours is either none at all or take a stand and say "Yes, we will have tourist areas."

I have never asked this question of my municipality before, but would that be a clear stand for the municipalities if at least the tourist exemption became something that was a responsibility of a board and the municipalities had to apply to it and it therefore became legislation controlled by the province?

Mr Burghardt: As his worship the mayor has said, we feel the tourist exemption right now is a joke. I think you are right on when you cite the situation in New Brunswick. Either the province says, "Look, we're going to have wide-open Sunday shopping," or "We're not," but you cannot leave it up to the individual municipality. We may be forced to go into Sunday shopping. There is no question about it and we are not hiding our heads in the sand. We realize that. If we are, then we will have to say, "Okay, everything is open," and if the retailers want to open, so be it. If they want to stay closed, so be it.

But at this point here, you have different situations right across the province. This is where the Legislature, the government of the day, has to be strong. Either there is wide-open shopping or there is not, but you cannot leave it up to the individual municipalities. This is what is creating the chaos, really, from one municipality to another. All we have done as a council, as you have stated, Mrs Cunningham, is that we have represented the people of the city of London, the majority, who have said to us, "We do not want wide-open Sunday shopping." If the province comes along and says, "So be it," then so be it.

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Mr Gosnell: If I could just add one thing, the whole idea of municipal option is no option, it is just a back-door approach to vote Sunday shopping, because over time there will be no option for municipalities other than to be wide open, compete with the surrounding jurisdictions.

Mr Daigeler: That is not what we have seen, though.

Mr Gosnell: That is exactly what is going to happen.

Mrs Cunningham: Mr Chairman, just as a point of courtesy, could I welcome everybody to London? I should have done that in the beginning. I am proud, as I am sure the mayor and deputy mayor are, to have this committee here and proud of my colleagues from all parties of the Legislative Assembly. I welcome you to London.

The Chair: Indeed. Thank you, Mrs Cunningham.

Mr Fletcher: Thank you for being here this morning. Let me start on a personal level. I agree with what you are saying about the municipal option. I disagree with municipal options. I disagreed with it when the Liberals brought it in and I disagree with it now. As far as what we have been hearing throughout the province, the business community is coming up and saying, "We have to open; we have to compete; we have to compete with the United States cross-border shopping." I agree, even though we say it does not make any difference with cross-border shopping.

You are saying you do not want the responsibility of designating areas that are open. It is a patchwork across the province. Sault Ste Marie, Windsor, the border communities are calling for it and then we get into Collingwood and that area. How can the province come up with criteria to designate tourist areas when it is such a patchwork across the province? I think this is what we are getting at in the municipal part of it—in your own community you know better which are the tourist areas.

Mr Gosnell: I think that is a good question. I wish the government of the day had asked us that about four or five years ago.

Mr Fletcher: Yes. They did not ask much.

Mr Gosnell: But the point is, the Association of Municipalities of Ontario is prepared, as you know, to work with the government to help define things such as "tourist," "shopping," "designated tourist areas" and the essential services that have over time been allowed to grow in Ontario. We understand it is complex and we understand it is very difficult. We are not saying it is going to be a very easy task. We are prepared to work with you on it, but we cannot understand how we can have legislation that would allow Metro Toronto to vote that it is a tourist area. In fact, they are in many areas, but not the entire area of Metro. So either it is Sunday shopping or not, and if the government and the Legislature are interested in: "How can we define it better? How can we put in a test to make sure that in fact the city that is coming forward can show that it truly is a designated tourist area or should be?" then we are prepared to work with the government to do that.

Mr Morrow: I was really interested in coming to London to hear what was going to be said about Sunday shopping, because I watched Dianne Cunningham's by-election win in 1988 and her stand on Sunday shopping, so I was really thrilled to be here this morning.

Mrs Cunningham: I did not let you down, did I, Mark?

Mr Morrow: No, you did not let me down at all, Dianne.

Mr Kormos: You have never let us down, Dianne.

Mr Morrow: I want to clear something up that Mr Daigeler said about the Employment Standards Act, there being only 16 cases reported. We all know that for each case reported there have to be thousands that go unreported. That is the bottom line. The upper echelon of the Ministry of Labour does not hear every case. I just wanted Mr Daigeler to realize that.

Now to my question. We have been hearing from a few places that the Ontario Municipal Board or some sort of regional board or something should have the appeal process so that the municipalities, the chamber of commerce or whoever can go there. Do you think that is basically a good idea?

Mr Gosnell: I think the concept of having some discussions with a government committee as to how we can establish a review that would allow for the designation of tourist areas and a review of Sunday shopping is something that could perhaps get into that in more detail. I believe there is something along those lines that could be put in place that would be guidelines for truly understandable tourist areas. We are prepared to work with government on that. I am not saying we have all the answers. We understand it is difficult, but you cannot leave over 800 municipalities, I think it is, in Ontario to determine in their own way what that will be, or you will end up with Sunday shopping all the way across Ontario.

Mr Morrow: I also have to ask you a favour, if you do not mind. I read your brief and listened attentively to what you were saying. There are a couple of quotes in this brief that I would not mind using, if there is no problem with that at all.

Mr Gosnell: Sure.

Mrs Cunningham: We'll get you on our side yet, Mark.

Mr Morrow: Do you agree that employees should have the absolute right to refuse work on a Sunday?

Mr Burghardt: Certainly they should have the option to refuse and that is what we refer to in our brief. Despite what the Liberal member said here, who disagreed with what we said, we feel an employee should have the right to say, "No, I don't want to work on Sunday." But we also feel there is a potential for that employee to be damaged in future.

Mr Lessard: I take it from your presentation that you have support for the services to be provided for tourists on Sundays. That is part of your presentation. You recognize that.

Being from Windsor, I can tell you that the situation there did not really have a lot to do with confusion about the existing legislation. I think they bowed to strong business pressures and the threat of cross-border shopping and the fact that we had wide-open Sunday shopping for nine months before they finally passed the bylaw that they did.

One of the things that has been strongly pointed out to me is that in Windsor they do not want any provincial intervention; they want to make that decision on their own. We have heard that from other municipalities as well. That is a problem we have when I try to reconcile these different viewpoints. Mrs Cunningham has said she wants to reflect the views of the people in London, but if I take the same approach and try to reflect the views of the people in

Windsor who do not want provincial intervention, somehow we have to try to deal with those two different approaches.

You have said you would see a lot of government hours being spent to try to enforce this law. But if we have a situation where the provincial government intervenes, do you not think we might have to set up a board or some sort of bureaucracy to try to deal with establishing tourism exemptions at the provincial level?

Mr Gosnell: Perhaps, but I think the test should be that we do not really have a problem with what Windsor wants to do as long as it does not impact us negatively. We hope what we do does not negatively impact Windsor. If London were to declare itself an international tax-free and duty-free area, I am sure that would be a tremendous economic boon for the city of London, but it might not help anybody else. Clearly we do not have the authority to do that, nor are we asking to do it.

I think we can accommodate Windsor and London by making sure that the leadership from the provincial government has shown that it has taken the time to properly designate tourist-designated areas. That can be a benefit to the ratepayers and retailers of Windsor and London and, over time, as the cross-border shopping issue is resolved some time down the road with hopefully more competitive prices and opportunities to bring more citizens south of the border up to buy something in Canada, I think that will work itself out. But to have Windsor declare itself unilaterally and entirely a tourist-designated area has very negative impacts on places as far away as London and Sarnia and Chatham and has a ripple or domino effect that will mean their decisions impact us. I do not think that would be fair for other communities and we would not want to be in a position where we negatively impact a place like Windsor either.

Mr Daigeler: Before the witness leaves, Mr Chairman, on a point of order, legal counsel clarified—

The Chair: Mr Mills will be making that clarification. I do not think it relates specifically to the city of London's deputation, but rather to your question, so perhaps we could do that and not inconvenience these gentlemen.

Mr Daigeler: The statement was made by the delegation.

The Chair: Thank you very much, gentlemen, and on behalf of the committee I want to make note of how pleasurable our evening was yesterday and how much we have enjoyed the city of London and your hospitality.

Mr Gosnell: I would be remiss if I did not say that the Canadian Association of Chiefs of Police are in town for the next three days, so I am sure all of you will be on your best behaviour.

The Chair: Even the parliamentary assistant to the Solicitor General.

Mr Mills, on a point of clarification.

Mr Mills: Mr Daigeler asked what the protection is for the employee's possible recriminations about this bill. We have confidence in and respect for the business community and we think the law in place will be respected by all those concerned. Also I think it very clear that Bill 115

sends a message to all the retail employees regarding their rights in this bill. It is a question of working together, and I think they will.

1010

Mr Daigeler: Quite frankly I am still confused if the question really can be answered in a yes or no fashion, possibly by legal counsel here.

The witness has just stated that it will be possible to skirt this legislation through hiring practices for new employees that include a stipulation or understanding that Sunday is a regular day of work. Is that possible under the proposed legislation? This is an important legal question that I think we have a right to see clarified.

Mr Mills: Unfortunately, at the moment there is no one here from the Ministry of Labour to answer that, but Janet is in the process of contacting the ministry to get that answer.

The Chair: So you will be getting a further response for Mr Daigeler.

Mr Mills: Yes.

CANADIAN RETAIL HARDWARE ASSOCIATION

The Chair: We now have a presentation from the Canadian Retail Hardware Association. Mr Finlay, please have a seat and feel comfortable. We have approximately half an hour to divide between your presentation and questions from the committee. As you probably have noticed, those questions tend to be more raucous towards each other than towards our witnesses. Please feel free to start as soon as you are ready, sir.

Mr Finlay: I am John Finlay, the executive vice-president of the Canadian Retail Hardware Association. I would like to thank the committee for inviting us to make this presentation today. We have been involved in discussions on this issue, it seems, for years. I have been involved with the association for over 10 years, and Sunday shopping has arisen in various provinces off and on all during that period of time.

Just as an aside, before presenting the formal part of the brief, I would add that I was a resident in British Columbia when it introduced its municipal option. From my recollection, the municipal option there was somewhat different than was being proposed in Ontario and they held referenda in the various municipalities. As an example, in Vancouver I believe it was the municipality of Surrey which took the referendum first and voted for closed on Sundays. Within about a week after that, Burnaby voted for open Sundays. Almost within two weeks after that, Surrey came back again and took another referendum and said it was reversing its position as such. So we have had some experience with the municipal option and it has tended to be negative.

If you will allow me to present the formal part of our brief, we have given out copies of this brief. I am sorry it did not come to you in advance. I am one of the 8 of 10 Canadians suffering from back problems so I have been out of commission for a period of time and consequently we did not get this to you ahead of time. We have prepared this submission to make you aware of the views of our

members on the Sunday shopping issue in Ontario and on Bill 115 and its proposed amendments.

The Canadian Retail Hardware Association is a national trade association representing the independent hardware, housewares and home improvement retailers. CRHA has operated successfully for 85 years and has almost 800 members in Ontario. Our membership includes stores from groups such as Canadian Tire, Castle Building Supply, Lansing Building Supply, Home Hardware, Pro Hardware and Do-It Centres. There are also a number of our members who buy from a variety of wholesaling sources.

The Canadian Retail Hardware Association's Ontario membership is overwhelmingly opposed to Sunday shopping. The typical CRHA member in Ontario is a franchised owner-operator who works a total of over 57 hours a week—in fact, every minute the store is open. Since our members work six days a week, the current Sunday closing law guarantees them one day a week to spend with their families. However, if the competition opens on Sunday, our members are forced to do the same, of course.

We believe the Sunday shopping issue played a major role in the last provincial election, even though that was not perhaps apparent in the press coverage. Our membership, supported by the association, worked hard to elect individuals who committed themselves to the concept of a common pause day. We participated in "Say No to Sunday Shopping" rallies throughout the province and we provided our members with posters and information to help them fight the issue.

We commend the government for the initiative it has shown on the Sunday shopping legislation and in general terms we support Bill 115. However, to make the law consistent, equitable and enforceable across the province, some additional amendments or changes to the proposed amendments must take place. We share the views expressed to this committee on August 15, 1991 by the Solicitor General of Ontario concerning both tourism and the labour-related aspects of Sunday shopping. However, we were disappointed that no specific mention was made of the impact of the issue on small businesses or their owners. In our industry, the owners are also usually retail workers. While they have no manager to tell them to work on Sundays, their competition can effectively force them to do so. We feel that by not acknowledging and identifying the needs of small business, the Solicitor General is encouraging an us-and-them philosophy between workers and owners in the province.

In the past, the major problems which have occurred surrounding the Sunday shopping issue have been mainly brought about by large and powerful corporate interests, primarily in the retail grocery and pharmaceutical sectors. Large corporations have a significantly easier task in dealing with Sunday shopping, having a much larger pool of managers and staff than the small, independent retailer. As stated earlier in this brief, the major problem concerning Sunday shopping which faces us all, whether in tourism, labour or small business, is how to ensure that any legislation to control the issue is consistent, equitable and enforceable.

The Canadian Retail Hardware Association is concerned that, as presently drafted, the amendments being

proposed to the Retail Business Holidays Act will not accomplish the desired results. To achieve the objective of a common pause day throughout the province, we would suggest the following:

(1) The statement of principle concerning municipal councils and the common pause day should be changed to read "must maintain the principle that holidays are to remain as a common pause day" instead of "take into account" the principle of a common pause day;

(2) The tourism criteria should be narrowed and more clearly defined, otherwise the result will ultimately be wide-open Sunday shopping;

(3) Subsection 4(1) concerning promotion of tourism in the province should be superseded by subsection 4(2), which states that a common pause day is the guiding principle of the Retail Business Holidays Act.

The members of our association have specific concerns about the sections of the act covering definitions, exemptions, pharmacies, Sunday exceptions, municipal powers, licensing proposals, penalty provisions and, last, court orders. However, rather than spelling out all our concerns in the body of this brief, we have attached an addendum which details our concerns and outlines possible specific solutions. The addendum is identical to the one which will be presented to the committee on August 29, 1991, in Toronto by the Fairness for Families groups, of which the Canadian Retail Hardware Association is an active member. As Fairness for Families prepared the proposals on behalf of a number of associations and interested parties, we suggest that the committee allow it the opportunity to discuss the content in detail.

In conclusion, the committee should be in no doubt about the feelings of retailers in our business sector concerning Sunday shopping. In a ballot conducted by our association in June of this year, 78% of our Ontario membership was totally opposed to open Sunday shopping and 12% was partially opposed. In fact, even in British Columbia, where Sunday shopping has been a fact of life for over 10 years, almost 45% of our dealers totally opposed the concept and 28% were partially opposed.

We would like to take this opportunity to thank the committee for inviting us to appear before it to express our members' views on the proposed amendments to Bill 115. We know how difficult and complex an issue Sunday shopping is. We have been involved in battles over this issue in Ontario and other provinces for many years. We would like to thank the committee for the time and effort it has committed to the process of public consultation on this topic, and we would like to assure it that our association and its members are willing to assist it to arrive at a consistent, equitable and enforceable Sunday shopping law for the province. Thank you.

1020

Mr Daigeler: I certainly can agree with you when you say on page 4 that you know how difficult and complex an issue Sunday shopping is, because we have heard many somewhat contradictory views on this question, and it makes it awfully difficult for a provincial politician to come up with a uniform solution.

There are of course some who argue, and I guess we have some committee members here who would take that position, and say the province should simply force its view on everybody else. I think the Liberal position has been different on that, as you know, and not everybody agrees with it.

In any case, I would like to hear from you. We had a Canadian Tire retailer in Thunder Bay come to us. He was from Kenora and he argued very strongly that he wanted to stay open and he needed to stay open to attract all the tourism business, all the travellers who are otherwise bypassing Kenora, to come to his store. He says he has been doing a great business while Sundays were open. On the other hand, we had a Canadian Tire retailer in Toronto saying he wanted to stay closed. What would you say to the one who appeared before us in Thunder Bay?

Mr Finlay: I think all that you are highlighting is how complex the problem really is, and also how emotional a problem it is. The difficulty, I am sure, that has been expressed by many of the previous presenters to you is that whenever you are asking individuals about staying open or closing, the crux of the matter really is having a level playing field.

First of all I would say that very possibly Kenora is a tourist region, truly geographically a tourist region, as opposed to the Eaton Centre in Toronto. But second, I think we come back to the fact that if all stores have to close, then the Canadian Tire dealer in Kenora is working on an even playing field with everybody else.

We, as an association, have to go on the basis of the majority of our dealers. Even the Canadian Tire dealers in Ontario—if you were to talk with their association I think you would find the majority of their dealers in fact are saying they want to stay closed.

We are back into the problem that immediately one stays open, then everybody has an argument to stay open, just as in the same argument used with municipalities, that if one stays open, everybody stays open. We do not have an answer. All we can say is that the majority of our dealers, including the Canadian Tire dealers, feel they should remain closed, and if that in fact was achieved, that we were able to keep those dealers closed, then one store cannot argue with another that it has any particular benefit. I do not know if that is really giving you an answer.

Mr Daigeler: What has been the experience among the members of your association during the time Sunday shopping legislation was in limbo? Did most of them stay open? Did most of them stay closed? What was the percentage, do you know?

Mr Finlay: I do not know the percentage, but it was very mixed. The majority who stayed open stayed open because their competition forced them to stay open. There was somebody who opened in an area and consequently that meant others opened in response to that. The general information we got back was that for most of our dealers it was not economic. Now, that varied, depending on region. There were some areas I think you would find in the province where there was a fair amount of activity, but I would have to say that in general the information we got back was that in most areas it was not an economic proposition.

They in fact were staying open and getting very little business. That argument can be extended even beyond our part of the industry and into the department stores and so forth, which in a number of areas found that they also were not generating a large volume of business.

The problem again—somebody else, I think, raised it earlier—is that in the earlier stages of this Sunday shopping issue in the province, nothing has gone on long enough in the changes that occurred to really make a very good judgement of what would happen. For instance, when we had the open Sunday shopping, some of the figures we saw from border communities were interesting. We found that there was an increase in cross-border traffic in places like Sault Ste Marie when there was open Sunday shopping here, which would not seem to make sense. I am not suggesting that we should necessarily use those statistics and say they mean this or they mean that, but certainly that situation did occur and we do not really know why you would have an increase in cross-border activity.

Mr Carr: Thank you very much for your presentation this morning. I was very interested that on page 2 you said, "We commend the government for the initiative it has shown," and yet on page 3 you say the tourism criteria should be narrowed, otherwise it will result in wide-open Sunday shopping. The vast majority of people who have come before us have said the tourism exemptions are so broad that a lot of municipalities have said, "Thank you very much, we are going to interpret it the way we want. There is no recourse other than the courts," which both sides have said, incidentally, they will use. So regardless of what happens in a community, the other side is immediately going to be able to challenge it because of the broad tourism exemptions.

You say on the one hand you like the legislation, but you are opposed to Sunday shopping, and as a result of this we will have Sunday shopping in a large portion of the province. I was just wondering if you could comment. If there are no changes to this bill, what do you see happening a year from now? Will there be Sunday shopping in Ontario, in your opinion?

Mr Finlay: I am not sure if you could say a year from now, although that is probably a good time frame, because of other factors, economic conditions, cross-border, and so on. It could take a bit longer than that, but, yes, ultimately we really believe it will be open Sunday shopping. Unless the legislation is extremely clear, well spelled out, unless the province keeps control of it, we think that ultimately you are going to end up with open Sundays once it gets into the municipalities. Again, there are all sorts of arguments, because you get into this argument about a group that wants open Sunday shopping, that has every bit as much right as the group that does not want it.

The problem, of course, you come into is that the group that does not want it is basically forced into it. Most people say, "If the hardware store doesn't want to open, then just don't open." It would be nice if it was that simple. But the fact of the matter is he knows he has to stay in business. He stands a chance of losing permanently every customer of his hardware store who goes to another store when he is

closed on that Sunday. So he has all sorts of pressures that basically say if other stores open, he must open.

As we see it at the present time, if the act is not tightened up, if control is not kept by the province and some form of licensing done and the province establishes whether an area is in fact a tourist area or has that ability to open, we think you are going to end up with open Sunday shopping indirectly.

Mrs Cunningham: Mr Finlay, I would like to thank you for what I think is an excellent brief. You have obviously put a lot of work into it. In fact, you have put so much work into it that we are going to have to take a very close look at it to put all of the acts you are referring to together.

I would like to ask you about the amendments you propose on page 2, the Sunday exceptions. One of the frustrations, of course, for the business people in Ontario is that again we are changing the rules. I am now referring specifically to the size of the store, which is 7,500 square feet, and if we take your advice we will be reducing it. This is one of the great costs of running a business in Ontario, the inconsistencies and the lack, I think, of strong leadership in governments. As a result, we will see people who have made those renovations in the last couple of years have to undo them. I am not saying I would not be prepared to do that if it made good sense, but it is one of the great problems we have. This is a good example of legislation where people have to flow with the campaign speeches, which is why we are in this mess in the first place.

I would like you to respond to two things. First of all, what do you really mean on page 2 with regard to Sunday exception? If you could explain it carefully. Second, coming from Mississauga, if you could pass comment on what I feel the reason for this legislation is in the first place. The municipality of Toronto would not take a stand and designate the Eaton Centre one way or another and therefore the Liberals in their campaign tried to respond with a provincial law. The rest of us were prepared to close on Sundays across this province, but once that tourist area would not be designated, in my view, we found ourselves with a provincial government promising laws for a common pause day, which of course was the exact opposite.

At the beginning, all of this trouble began with a lack of the political fortitude to talk to people in the Eaton Centre in the municipality of Toronto, and the rest of us around this province who do not live in the city of Toronto do not feel that way. So two things: Sunday exception and perhaps a little bit of history since you have been around for a while.

1030

Mr Finlay: The Sunday exception: I guess our view on it again comes down to trying to tighten the act up. We believe the size of stores being allowed to open, the 7,500 square feet, is too large. We would like to see that reduced to truly represent small stores, which is the 5,000 square feet. There are a number of problems even there because you can get into situations—Harbourfront would be a good example—where you have a lot of small stores. You could get into situations where a major corporation can set itself up with what in effect are small stores but are truly not

small stores. They are really part of a department store, if you like. We would like to see that tightened up.

Again, I refer you back to the addendum that is attached because it clearly can specify what we are saying. We just think the wording of the act is not strong enough or precise enough as far as the Sunday exceptions are concerned. We would like to see it tightened up so that there are not the loopholes in it to let people get through.

If you have that addendum and refer to the Sunday exceptions on there, I think what we had said, and I say, is that we are sharing with Fairness for Families. I do not want to take their thunder away from them. You will have had a chance to look at what they are going to be saying, but they will have some additional material. Basically, we have just tried to more clearly specify under that section 2 things concerning the square footage and the number of persons engaged in the operation of that store to keep it small.

Mrs Cunningham: Do you think the number of persons would be difficult to enforce? That was one of the criticisms the Liberals brought forth. They said you just could not enforce the numbers of persons. I think that would be one of the easier things to do.

Mr Finlay: No, it is difficult. There is no question that anything to do with Sunday shopping is difficult. Again, whoever is involved, we would not want to suggest that it is an easy issue by any means, and there has to be compromise. We said in our presentation that we support Fairness for Families, as an example, which is a group of many associations. I would be incorrect to say we agree 100% with everything they are suggesting. We had to compromise to come up with an agreement with other groups that were involved, so there are areas that I know some of our members might say, "We don't really think that is correct," and so on. The tourism area part in particular is a real problem in our industry.

We know there are areas that we do not necessarily agree on 100%, but we have had to compromise. What we are really saying, and I guess what we would like to say to you as a committee and in having parties represented is, from our industry standpoint it is a very vital and important issue and it is going to have tremendous impact on the people within our industry, whether workers or owners of stores. We would like to see a lot less politicking and a lot more constructive work to try to solve the problem because we really do think there has to be a major effort made to solve it. It would be nice if we could get the parties to agree on a general consensus of how to approach it, but we have not been able to do that within our own industry so I do not think we would realistically suggest we could expect the various parties to agree.

I would, though, if I could just make one comment, say that we would have great support for your own comment about the law in New Brunswick and these provinces. We believe that kind of tough line has to be taken.

I do not think I answered the second part of your question.

Mrs Cunningham: That is all right. It was rather political and you were urging us to work together, and I hope that is what we will do.

Mr Lessard: It is always great to hear from a representative of a large number of what we would call small, independent retailers. Sometimes we hear from individual retailers and in this case it is an organization that obviously has a lot of clout and influence.

I want to say that I agree with you with respect to tightening up the tourist criteria, and I would take it from your brief that you do recognize the value of ensuring that there are services available for tourism on Sundays. One of the proposals that you have made in your addendum is to have licensing to permit people to open up on Sundays, but the provisions in there are very general. In fact, you just say that a person should obtain a licence, but there are no other further details. Can you explain to me what you might have in mind for a system like that?

Mr Finlay: What we are really suggesting is that the province, in its legislation, spell out what is necessary to obtain a licence, that the specific requirements to control Sunday shopping are tied in to the presentation from the provincial government.

Mr Lessard: So this would be a licence that would be granted by the province, not by municipalities.

Mr Finlay: We would rather see that. However, in the case of the municipalities, if there are very clear guidelines as to what constitutes the ability to open on a Sunday, if there are very clear specifications on that, and if all of the other criteria are met—in other words, that the penalties are very clearly spelled out, that what really truly constitutes a tourist area is really spelled out and so on—we would still like to see the power remain with the province.

At the municipal level, we feel if the licence were applied for at that point, unless you were able to really tie down the legislation, you are going to have a tremendously difficult time in controlling it. You are going to find different municipalities will tend to administer it differently. We would be much more comfortable with the province granting those licences, along with controlling it. One of the suggestions that has been made, and I think you will hear it again, is controlling perhaps tied in with the group that administers the retail sales tax and so forth, but with a group that can in fact administer a licensing process.

Mr Lessard: I guess something that we think people always have some apprehension about is the government establishing some additional board or tribunal or something of that nature.

Mr Morrow: I want to thank you for this fine brief that you presented to us, because it helps in a lot of ways. Actually, what we have here are some draft amendments or draft legislation to basically try to clean up a real wishy-washy previous government's Bill 113.

Mrs Cunningham: And Bill 114, which was worse.

Mr Morrow: Bill 114 was worse—you are right. So this really does help us an awful lot.

There is one thing that I would like to bring out that you have on the last page of your ballot, and it is something that I feel very strongly about. You have a ballot about Sunday shopping. One line that you might want to put in there is, "Do you want to work on Sunday?" because that seems to be a constant theme. A lot of people

say: "Well, yes, I wouldn't mind shopping on a Sunday, but, Jesus, no, I don't want to work on a Sunday. No, not a chance."

Going to the tourism option, do you feel that the province should have total control over the tourism criteria?

Mr Finlay: Yes.

1040

The Chair: Before you leave, Mr Finlay, I had one small question from one of my colleagues in regard to your symbol, the arrow and circle. This is totally aside from your testimony.

Mr Finlay: We have had a number of comments made about that, some kind of interesting ones in this particular day of being politically correct—I think that is the term used. We produce some educational material which we ask some of the educational facilities to distribute for us or to keep in their libraries and so on. We had a video about our industry which we sent with a letter to a number of the universities to ask them if they would keep it in the libraries. One of them went to Simon Fraser University in British Columbia, a fairly radical university, or with a reputation as being fairly radical. We got a letter back—I cannot remember the title of the person whose letter it was, but it was basically to do with women's issues within the university—in which they said that under no circumstances would they carry this material, because we were obviously a totally sexist organization, as shown by our symbol, which was actually the male symbol and so on. We wrote back to explain to them that the symbol is actually an international symbol used to denote our industry in Europe, as well as Australia and Canada and so on. The arrow is actually the alchemist's symbol for iron and is not the same way as the male symbol. But in answer to your question, that is what it actually is.

Mr Poirier: I thought it was because of the reference to hardware.

Mr Finlay: In Europe they are called ironmongers and they were people who worked with iron, if you go way back. That is where the symbol came from and that is why we use it. Thanks for the opportunity of enlightening you on it.

MIKE BRADLEY

The Chair: We now have a presentation from the city of Sarnia, Mayor Bradley. We have approximately half an hour. You can divide that time between your presentation and allow some time for the committee members to pose questions, of which I am sure there will be plenty. Please feel free to start.

Mr Bradley: My brief is brief. First of all, I thank you as a committee for visiting the region. It is refreshing for us to have MPPs in the area instead of travelling to Queen's Park and we certainly appreciate that. I appear in front of you as the mayor of the city of Sarnia-Clearwater, and also, for the last two years I have served as chairman of the association of large urban cities of Ontario, which represents the 34 largest cities in Ontario, and just this past week became a vice-president of the Association of Municipalities of Ontario.

For the past four years the communities throughout Ontario have been put through a period of chaos and turmoil dividing labour and business within our respective communities because of the actions of the proposed legislation of this government and also the previous government. In the last provincial election there was a very clear commitment to eliminate the municipal option and to move back towards a provincial, uniform standard of laws across this province as it relates to Sunday shopping. The legislation that is now in front of you I do not believe keeps that commitment.

The previous Peterson government created the problem by bringing forward the municipal option, then appearing unable to deal with the issue in a quick and simplified manner. We went through two or three years as municipal councils trying to get a clear grasp on their direction and live within all the different court challenges.

I speak to you as the mayor of a border city which is going through a period of destabilization of its retail industry, and from that vantage point I can tell you that the Sunday shopping and cross-border issues are two separate issues. Border communities have a seven-day-a-week problem.

Just this morning, before I came here, I met with some retailers in our community, and we just received the survey the province did, a telephone survey to the Sarnia-Clearwater area in April of this year. Their estimated job loss in retail, in an area of 126,000 people, is 2,072 jobs and over \$150 million out of the economy. In London itself they estimate \$135 million is being lost annually on cross-border. But it is a seven-day-a-week issue, and the busiest days at the bridge points are Saturday and Friday, respectively.

We all know why the cross-border issue is occurring. It is taxation at all three levels of government; it is the GST, it is retail markup, it is all those issues. I am sure you are very familiar with that. The best estimate I can get from anyone who is even very pro on Sunday openings is that it might make a 10% to 15% impact on the business here might be able to retain in the United States on a Sunday.

The example I can give to you that I think sort of destroys the myth that Sunday shopping and cross-border shopping are entwined together is Sault Ste Marie, which I understand has had wide-open Sunday shopping for the last four years and last year lost \$140 million in retail business and an estimated 1,000 jobs in its economy.

The city of Sarnia-Clearwater has not had Sunday openings except for the eight-month period when the law was struck down. Even in the last two months a survey of our business community indicated that 66% were still opposed to Sunday openings. However, if Sunday openings were allowed, they obviously would have to follow the market forces.

I personally am opposed to Sunday shopping and voted against it when it was raised at our council meeting just a few weeks ago. However, I was overruled by the majority and I accept that verdict. Our council responded to a request by a major drugstore, and I use that word loosely, of 25,000 square feet. That is quite a drugstore, and I think that points to some of the problems we have had with the previous law, that there does not seem to be fairness in how it is applied, and is it equitable?

My own message to my own council was, "Wait for the provincial legislation, wait to see what this committee recommends, and then work under those guidelines," because to me it is simply going to be a process of we bring the public in, we go through the process, then two months later we are going to have to go through the process again.

There has been a great deal of talk about a new partnership among government, business and labour, which I think we all support. A few months ago, when I had the opportunity to meet with Premier Rae, we discussed it at length. We are trying to do that in the Sarnia area.

I greatly fear that this can impact negatively on that partnership, because it does divide business, it does divide labour, and it is all unnecessary. If the legislation is accepted as currently presented, municipal councils will be tied up with literally hundreds of individual applications and working with criteria which are as tight or as wide-open as they wish. I also believe it is a denial of natural justice to say you can meet the criteria but municipal councils still have the right to turn down your request.

I spoke to the Solicitor General last week about this and I expressed to him, from my point of view in border communities, that with this changing public mood and with the will of council and the public to have Sunday openings in places like Sarnia and Windsor, what is going to occur is that there is going to be defiance of this law. I presume the process that these councils will take is simply to instruct staff to approve all applications and then let the province react to that decision. I do not think that is a correct way to approach things and I do not believe it is an appropriate way for council to govern, but they certainly are giving those signals now.

I would also suggest to you, even though I have total opposition to Sunday openings, that from my point of view it would be better to have an and/or situation in our respective communities. I believe that it would be a lot better for us simply to make the decision to be open as a total community or to be closed as a total community and not to tie us up in this prolonged debate on individual applications.

The Association of Municipalities of Ontario has made representations suggesting that if this law is to unfold, we would prefer a provincial board making decisions. I think many of you have served in municipal politics. You know the pressures municipal councils face and you also know they are very susceptible to those pressures. I think if there is going to be a uniform standard, there should be one that applies to Sarnia, to Cornwall, to Sault Ste Marie, to every city in Ontario with some fairness and equity.

In what has been proposed, you have given us the worst of both worlds. We are now placed in a position of a local option with provincial criteria, and I believe that is going to lead to the very wide-open Sunday shopping which I think many people in this room do not want.

In summary, I make two recommendations to you. If you intend to proceed with the present legislation, with only amendments to the criteria, the enforcement and the regulation should be on a provincial basis with a provincial board, which is the position of the Association of Municipalities of Ontario. If you are willing to move beyond the confines of the proposed legislation, I would suggest to you

again that you allow municipalities to make the decision on a total basis for a community to open or close. Otherwise, you are simply setting in place a system of planned chaos that will divide labour, business and municipal councils without any tangible benefits to our communities.

1050

I will continue my opposition on this issue because I feel it will not enhance our quality of life or bring about a better Ontario. Also, from a financial point of view, communities the size of Sarnia will have to look at demands for Sunday busing and day care, which do not exist today. That in turn leads to additional costs to the local ratepayer. However, I am also trying to be realistic in recognizing that the public and political mood has changed greatly in the last year.

Tonight my council will be having its public meeting on this issue. It is my belief that it will go ahead and designate the city as a tourist area. I think it is regrettable that we have to go back and revisit the process in a few months. But I also stand by my convictions and I will vote against that on the basis that it will not enhance our quality of life. But I would suggest to you, and I know that you fully understand this, that you have the responsibility to move beyond just looking at amendments and bring forward the best legislation possible, so that some future mayor of Sarnia is not sitting in front of another committee a year from now telling you that the legislation is not workable.

I would like to see the issue resolved. I have spent four years as mayor dealing with this issue. I am sure that you are tired of it. I think the public is. We need to set a clear direction and live with the verdict of the people who are elected to make decisions.

Mr Daigeler: Thank you, Mr Mayor, for making the presentation, although quite frankly I am not quite clear how to interpret your brief. On the one hand you are putting forward what I guess is a personal opinion and on the other hand you are speaking as the mayor of the city. It makes it a little bit difficult for me. The city of Sarnia obviously is not reflected in your brief because according to the vote it went 11 to 4 against the opinion that you are presenting here. On the other hand, you are the mayor. So I am a little bit confused which way I should take your presentation, whether I could say the people of Sarnia want this, or just the mayor of Sarnia wants this. You may be able to clarify that.

Mr Bradley: That is a fair question. I debated the wisdom of appearing in front of the committee. However, since council does not have the public meeting till tonight, our position up to this point in time has been opposed to Sunday shopping. It gave a clear signal a few weeks ago that it would be looking at perhaps changing that position. That is why I clarified that. I do not speak directly for the council. I am telling you its position. But I also can tell you that no matter how you feel about the issue in a border city, we are totally confused about the direction that this new legislation is headed in. It is going to cause us a lot of problems trying to decide who should open and who should not open.

Mr Daigeler: There is no question there are problems. Quite frankly, I find it a bit unfair of you to say in your

opening paragraph that this is all the fault of the provincial government. You are blaming both the current one, the previous one, and probably even the Tories, because they had the tourism exemption and it did not solve too many things either.

Mr Bradley: I was just a child when they were in power.

Mr Daigeler: I think the problem really is that the issue is complex and that people have different opinions on that. I do not think it is fair to say it is all the fault of the provincial government, as you have done quite clearly in your brief. I think the problem is that we have different opinions. We have mayors who have different opinions than the majority of their councils. We have different cities that have different opinions, and we have different retailers that have different opinions. We have the Canadian Tire stores where one says yes, the other one says no. So I do not think we should blame any particular government for that situation. It is a complex issue and we are trying to do as best we can in respect to those different opinions.

Mr Bradley: I would say to you with respect to that, I stand by those comments. The fact is, until three or four years ago this was not the issue that it has become. Fracturing has occurred across the province between municipalities. You are seeing that tug of war right now between Windsor, Sarnia and London. We did not have that situation until three or four years ago, when the government of the day brought forward changes to the legislation. I think it is a great waste of time and energy by politicians at all levels. It is regrettable that we have forced through this three- or four-year time period. When all is said and done, this has been a provincial responsibility for 100 years. In the last three or four years, it has been tossed back to the municipalities, and it has created a lot of division.

Mr Daigeler: That is not quite correct either. The tourism exemption had been there. I remember my own city of Ottawa. There would be big fights, before the Liberals ever were in power, as to which area should be designated tourism or not. Again, I think this has been there for quite a while.

Mr Bradley: And the Solicitor General of the day, again with respect, was told back in 1987 or 1986, that you have legislation. It has some faults, but that legislation could be corrected. The Association of Municipalities of Ontario and the municipal councils of Ontario were ignored at that point, and they proceeded with the legislation, which has led us to where we are today.

It is really not important right now perhaps to point the finger at the past; it is where can we take this. How can we make sure that we do not divide business and labour in our respective communities? How can we have a law that will be at least one that will be in place and give some guidance so that business people and councils and communities can plan their future properly? Right now we cannot because we are under this cloud of uncertainty.

Mrs Cunningham: It is a pleasure to have you here this morning. I would certainly say, as a colleague of the previous mayor in Sarnia, it has been noted for electing people who stand up for what they believe in. I think you

were very clear on your personal position and on the position of your council, and I commend you for that. Actually, when you read your brief today, I thought we may have collaborated, because I think I gave the same kind of speech at the beginning of the day. I agree with you.

Mr Bradley: This could severely damage your reputation.

Mrs Cunningham: I think it could damage yours, and I think yours is more important in the next few weeks than mine. I think your comment about getting on with it is very important. We have learned a lot from the public hearings across the province. What is missing is somebody to stand up with clear leadership and say, "This is it."

My suggestion, after being through two rounds of public hearings in the past, was that the province follow the New Brunswick model. It in fact does have a board. I think you might smile when I tell you it is the liquor control board that administers Sunday shopping. So we may have one of our colleagues in on it yet. The reason they did that is they did not want to duplicate bureaucracy, which I think is fair. One of the problems I see with that—although I would still go with it; if I had the power I would do it that way—would be simply that for me the province should set the rules for tourist areas and that is it.

The municipal part of it is interesting. This is talking to the people in New Brunswick about two weeks ago. In the beginning they had a lot of concern in the municipalities, because if you do not go to your municipality for permission, if you are a large shopping centre or a big food store, your chances of getting past the provincial board are not great. So there was a lot of municipal involvement by individuals. But after a while, it sort of set its own tone. It did work, but it took about two years, or almost three they told me, to get it to work. Right now there is some pressure to change, but I am not sure what will happen. I wondered how you would feel about that, because you were concerned about the numbers of applications you might have. It appears to me that may, in an informal way, still happen.

One other point I would like you to respond to: As provincial politicians, we in Queen's Park hear that border towns want Sunday shopping and that it does directly relate to the cross-border shopping, yet the statistics that you gave us today would not make that realistic.

Mr Bradley: Just to answer the last question first, they are two separate issues. Even the most vocal opponents in my community—and I met with some of them this morning; Canadian Tire, the manager there for example—admit that it would not have a profound impact, except that some of them are at the point of desperation. I guess they are looking at any option.

I am concerned that when people mix the two issues together they forget the real problem we are facing with cross-border shopping, which is just a mess. Even as I speak today another major business in Sarnia is announcing it is going out of business.

My first preference is a provincial board with provincial criteria. Failing that, if the government is not willing to respond in that area, then I would prefer the and/or situation, where we simply get it over with in our respec-

tive communities and live with the consequences of that decision. But AMO has looked at the New Brunswick model and it thinks it could work. I think it would have a lot of merit, because it does have some latitude and gives us a chance to respond to unique situations. But that goes back to what I said earlier about the previous legislation. We felt the tourist exemption could be cleaned up to the point where it would have worked too.

1100

Mr Fletcher: The important thing that I am going to ask you is on the Sault Ste Marie issue, because Sault Ste Marie came to us in Sudbury with a very impassioned plea: "Please let us open on Sunday. We are dying." And they are. Algoma Steel is closing down. They are in dire straits. But the point I am getting at is that, at best, you could retain 10% to 15% of businesses now going to the United States. Is that 10% to 15% of the businesses you can retain with Sunday shopping going to have a big impact on retaining jobs that are being lost?

Mr Bradley: I have sort of become somewhat of a mini-expert on this issue. That survey I referred to before, which was done by the Ministry of Industry, Trade and Technology in April this year in a number of communities, identified why people were going to the US, and 84% in Sarnia were going because of gasoline. I have used this example so many times. The gasoline they are buying in Port Huron is made in Sarnia; taxation on that gasoline is the problem. But when you look at the items they are buying, it is gasoline, paper goods, household cleaning products, in that order. Poultry is the next one, and shoes, at 39%. I am not sure that opening the retail industry is going to have an impact. What is driving them over there seems to be things that they are determined to get, which is gasoline, cigarettes, alcohol, those items. I take no issue with what Sault Ste Marie is doing. Cornwall is different too; it is more like Sarnia, or was more like Sarnia. Communities change. I guess they have to respond to their own individual circumstances. But I just get very concerned when people entwine the issues, because I think it does a disservice to what is happening to our retail industry in our border communities.

Mr Fletcher: Yes, I think you are absolutely right. They should not be mixed up. They are two separate issues. Thank you for your response.

Mr O'Connor: Just a couple of minutes ago, when the mayor of London was presenting to us, he said that he would like to have the opportunity for some more input into this legislation before we go forward with it. You are asking for us to resolve it as quickly as possible. Now I think before we rush into anything, maybe we should perhaps dialogue a little bit here. Do you feel that we should try to include the municipalities in coming up with the tourist criteria, as was recommended by the mayor of London?

Mr Bradley: As part of my presentation I tabled a letter from February 20 that was written to the then Solicitor General, Mike Farnan, in response to a letter he wrote to the border city mayors. We responded at that time in detail with what we thought would be best, which was the provincial board with very tight, standardized, objective criteria; individual applications adjudicated by a provincial

panel; a requirement for local input from the municipality; and a requirement for public hearings held by the provincial panel within the local area.

I think the issues are well understood. I think that most municipal leaders understand what the impact is. I can understand the mayor of London's concern though, because if Sarnia decides to open on Sunday, then its options are going to be very limited on what it can do in response to that. And if Sarnia and Windsor both open, which it looks like the case, then London is going to be forced into a position which it really has no control over. But the issues have been pretty well studied and I think we all understand them. It is a question of, does the committee want to move beyond just making amendments to perhaps trying to resolve the issue for some time to come?

Mr O'Connor: In the decision by the council there, did you hold some public hearings and was the general populace of your community supportive? We hear from a strong lobby group of retailers saying that they want, of course, wide-open Sunday shopping, but from the community itself, from the broad spectrum, it seems to be very mixed and more the other way. So did you have public hearings, and which way do you feel the broadest representation went?

Mr Bradley: Actually, our public hearing is tonight, which is 30 days after they took the vote to do it, which to my mind is a disservice to the public.

Mr O'Connor: Backwards.

Mr Bradley: We should have a real and tangible public hearing and listen to them. But my assessment of the community is the business community is split, and if you look at the results of a survey which I attached there, 66% did not want to be open on Sundays. However, other factors may force them into that. The labour community is split, there is no question there. And you have to be careful of who is in front of you when you have the landlords of the malls. It is in their self-interest. Canadian Tire is a good example. I think of any business, they can probably make the best case that Sunday would make a difference to their business because of the nature of what they present.

But the community is very much divided. I expect tonight to have a long evening with that division. My personal experience—it is more anecdotal—is that the people opposed are much stronger and more vehement in that opposition than the people for it, who I find are much more ambivalent: "If it's there, it's there." But there are some impacts they should be aware of, especially from a municipal point of view, providing all these new services, the additional policing, the daycare, the bus and all that type of thing. I just do not like to see division in my community and I think there are ways of resolving it and at least resolving it so that we are not dealing with this issue a year from now or three years from now etc.

RETAIL, WHOLESALE AND DEPARTMENT STORE UNION

The Chair: We now have a presentation from the Retail, Wholesale and Department Store Union with Mr Ab Player, who is an international representative with that union. Mr Player, you have approximately half an hour. Please feel free to use that time as you wish but typically divide it

between your presentation and some time for the committee members to ask questions.

Mr Player: First, I would like to do a little background on our membership. The Retail, Wholesale and Department Store Union is pleased to present this position on behalf of our 20,000 members in Ontario directly affected by this legislation and our 140,000 total international membership interested in the working conditions of retail workers.

We represent working men and women in the retail food, department store, drug, books, clothing, shoe, furniture, hardware and sundry industries. These are supported further by members in the trucking, warehousing and production facilities supplying these retailers. The RWDSU is affiliated with the Ontario Federation of Labour, Canadian Labour Congress and all municipal labour councils. The OFL fully supports, in consultation, the position of the RWDSU and its members.

What we feel is the real issue: It has been the position of RWDSU, the position of many other socially-conscious organizations and, we believe, the position of the government, that there should be a common pause day for retail in the province of Ontario and that most stores should be closed. The present effort by the government to enshrine this principle is applauded by our membership and we would like to share our few concerns with the practical application of this idea. We recognize a need for pharmaceutical products and emergency grocery shopping on Sunday for a few consumers. The legislation should recognize these limited exceptions as just that, exceptions to the rule, and deal with these loopholes existing for retailers circumventing the true intent of the act.

We further recognize the need for tourist exemptions for legitimate tourism areas but this should not be used as a guise to promote another daily shopping day or to address the cross-border shopping issue. The legislation was not designed for, nor intended to be, a promotion of tourism or control of cross-border shopping. It is a piece of legislation enacted to provide employee rights to a common pause day. Our concerns and proposed changes to the amendments to the Retail Business Holidays Act can be set out under the following subjects: (1) the purpose of the Retail Business Holidays Act; (2) the definition of a retail business; (3) drug stores; (4) tourism criteria and the municipal option, and (5) the enforcement.

First, the purpose of the Retail Business Holidays Act: While the present act fails to enunciate specifically a worker right to a common pause day, the proposed amendments fall short of clearly establishing this right, which we believe is the intent of the government. Should there be any test in the future of the weight of the exceptions to the rule, then the lawmakers should be able to refer back to this guiding right. It will provide consistency to the legislation.

1110

The RWDSU would recommend that subsection 4(2) regarding municipal powers read:

"The council, in passing a bylaw under subsection (1), must maintain the principle that holidays are to remain as a common pause day; that is, to ensure that they remain:

days in which most businesses are not open; days in which most persons do not have to work.”

Second, the definition of a retail business: A retailer by any other name is still a retailer. Whether they call themselves membership clubs, club warehouses or otherwise, these are retailers and the definition of a retail business needs to be addressed to incorporate these giant stores like Price Club which currently operate on the edge of the law.

Our proposal is that clauses 1(1)(b) and (c) of the present act should be amended to reflect the following:

“1(1)(b) ‘Retail business’ means the selling of goods or services by retail to any member of the public, including a member of a club or co-operative or any other group of consumers.

“1(1)(c) ‘Retail business establishment’ means the premises where a retail business is carried on. Any space or stall in markets, particularly in covered markets and flea markets, is considered to be a retail business.

“1(1)(d) ‘Principal business’ means that portion of the business which accounts for 80% of the business gross sales.”

Third, drug stores: We accept that emergency pharmaceutical services are a necessity, but the current act provides for square footage of 7,500 square feet. This has resulted in the proliferation of large chain drug stores which devote most of their floor space, employee time and sales to non-pharmaceutical sales on Sunday. They have been transformed into large grocery, sundry and convenience stores, thereby robbing small independent druggists and legitimate convenience stores of much-needed sales.

The government should allow the drug stores to serve their purpose, and the convenience stores, currently exempted, to serve theirs. There is no need for these large stores as pharmacies, nor the number of employees for non-emergency services. Our experience with the membership in these stores supports this conclusion.

We cannot find any municipality in Ontario without a small druggist or pharmacy attached to a hospital or a medical clinic. We believe that the real reason for opening these businesses on Sunday is for emergency drug care. If so, the pharmacist should be on duty at all times, the floor space should be limited to these reasonable needs, and the number of employees likewise.

Therefore, RWDSU suggests that clauses 3(2)(c) and (d) of the present act be amended to read as follows:

“3(2)(c) The total area used for serving the public or for selling or displaying to the public in the establishment is less than 2,400 square feet.

“3(2)(d) The number of persons engaged in the service of the public in the establishment does not at any time exceed four, including the pharmacist, who must be present in the establishment during business hours.”

Fourth, tourism criteria and the municipal option: The RWDSU believes that the only way municipal authority over the regulation of Sunday work can work under the tourism exemption is with a clear and unambiguous criteria and an external arbitrator if a municipality oversteps these criteria.

It is clear from the current legislation that some municipalities have used the tourism exemption to declare them-

selves outside the legislation for the purpose of non-tourist-related shopping and competition. The proposed regulations under the new sections 1 and 2 and subsection 4(1) are too broad to be meaningful. A number of municipal politicians are already claiming tourist status in areas not traditionally regarded as recreational or cultural tourist areas.

Sunday shopping should only be for the maintenance and development of tourism and tourists, not recreational shopping. If the province is not to be the final decision-making authority, then an external tourism exemption board should be established to review all exemption applications for their tourist status under a well-defined set of guidelines.

The RWDSU recommends the following amendments and the new subsection should read:

“4(1) Notwithstanding section 2 and subject to the provisions of sections 4(1)(a) and (b) below, the council of a municipality may, by bylaw, permit retail business establishments in the municipality to be open on holidays where it is essential for the maintenance or development of a tourist industry and where it is essential to meet the educational, cultural, leisure and recreational needs of the tourist; and

“(a) only retail business establishments in which the total area used for serving the public or for selling or displaying to the public in the establishment is less than 4,000 square feet; and

“(b) the number of persons engaged in the service of the public in the establishment does not at any time exceed four.

“4(8) The council’s decision may be appealed by any interested party to the tourist exemption board.”

Further, the RWDSU recommends that the government establish a committee of affected stakeholders—representatives of retailers, unions and government—to prepare and recommend a comprehensive set of tourist criteria that are both viable and reasonable and that these would form regulations to be part of the legislative authority.

Fifth, enforcement. Current enforcement is weak because while maximum fines are \$50,000, penalties are small and little deterrent. The minimum fine should be increased even beyond the current amendments proposed. Most retailers still profit from a Sunday opening. Ontario should further follow the Quebec lead in allowing affected parties, not only the Attorney General and the municipality, to apply for injunctions, reducing costly enforcement. Violators faced with stiffer penalties and more community-based threats of injunctions should be more reluctant to pursue costly litigation.

The RWDSU recommends the following changes:

“3(1) The minimum penalty should be modified to \$10,000.”

“8(1) Upon the application to the Supreme Court by any affected or interested party, the court may order that a retail business establishment close on a holiday to ensure compliance with this act or regulation under this act.”

In summary, our members are both retail workers and consumers. They know that Sunday work only means shifts of work and business shifted from one part of the week to another and a more fractured work week. They already are exposed to one of the longest and least stable work weeks. The effect on their families and personal lives is already as difficult as any group in society. Few consumers who shop

on Sunday would opt to work on Sunday and pay the price that retail men and women do.

Some will argue that we must compete with cross-border shopping dollars, but across the border they do not enjoy or pay for many of the social programs we enjoy, such as medical care. Should we eliminate those too and let the marketplace take its toll? Our membership believes that this government can balance the interests of business and competition with a fair and just working environment for these millions of Ontario workers.

Cross-border shopping is the product of a high Canadian dollar, lower prices, lower social benefits and a free trade environment brought on by federal policies. It is not a matter of shopping convenience and we should not design worker rights around temporary and fluctuating economic conditions. We should also not force our municipalities to fight among themselves over limited shopping dollars.

The fairest approach to Sunday work and shopping is to minimize the risk to all and eliminate all but the most essential services. A caring government would exercise its mandate and fulfil its role in protecting the welfare of the Ontario worker.

Mr Mills: I would just like to inform the witness that it is the view of the Ministry of the Attorney General that the Price Club is caught up in the intent of the legislation, the provisions of the legislation. So you do not have to worry about that.

Mr Daigeler: I will not have too many questions because we have of course heard this particular presentation quite a few times already, so it is not really that surprising.

I do have one question though that moves away from this particular brief. In your role as a union representative you must meet workers from other economic sectors, in particular the industrial sector. What are you hearing from the workers there who are presently working on Sundays? Is there any movement at all to reduce working hours on weekends?

Mr Player: For the people who already are working?

Mr Daigeler: Yes.

Mr Player: I have not heard that. People working them are saying basically, "We are stuck working them but we do not feel that everybody should." It does not do any great deal to broaden the scope.

Mr Daigeler: But for them it is no problem.

Mr Player: They went into the business they were in knowing what they were getting into. Most of our working people went into the industries we are in feeling they did not have to work on Sundays. It is the same, I guess, if you are a policeman or a fireman. You know that some Sundays you are going to be working, but you do that when you go into the job. Our people went into the retail industries and it was not a problem of working at that time and, all of a sudden, now it is.

Mr Daigeler: I just feel that the argument of the labour movement, which has been quite strong, would be a lot stronger if it was arguing not just for one particular sector of the movement but for all the workers together and how possibly we might improve the leisure time and the rest time and the common pause time for all the workers and

not just the retail workers. It is just a comment I am leaving with you.

Mr Player: I understand what you are saying.

Mr Daigeler: In fact, in some countries, that is what the labour movement is trying to achieve or has in fact achieved.

Mr Player: That would be Utopia, that is true.

1120

Mr Carr: I readily admit that your mandate is to represent your workers and it has to be your number one concern, so I appreciate that. I was interested in the last page. I think the mayor of Sarnia hit the nail on the head when he said the cross-border shopping issue is really all three levels. It was interesting that he said municipal, provincial and federal. I happen to agree with him. It is the taxation levels at all three that are creating the problem.

On page 1 you say, "The present effort to enshrine this principle is applauded." I was wondering, if there are no changes to Bill 115, what do you see happening in the province? Will there be Sunday shopping in this province?

Mr Player: What I see would happen is that the confusion would reign on. What we have now is a confused workforce, a confused shopping force and confused business people. We have confused everybody because nobody really knows if he is going to be open or not going to be open. I think if we do not put some teeth into this thing, this confusion will continue.

Mr Carr: Quite frankly, even as recently as yesterday when we were in Windsor, some of the labour groups that were in said that if we do not change it, there will be Sunday shopping. Since your workers are the ones who are most directly affected by it—because the other group that was presenting which said it feels there will be Sunday shopping is not in the retail sector—if in fact the bill does not get changed and we do have Sunday shopping, will you feel that the Premier has let you and your workers down?

Mr Player: I do not know if he has let us down. I might say we did not get what we suspected we would from the Premier.

Mr Carr: When he promised. You are very polite.

As you know, the situation with regard to the protection of workers is another factor. Quite frankly, when the Labour minister brought it in, he said that protecting workers was his number one concern, and Mr Mackenzie has fought all his life for that. The protection the retail workers will have is stronger than in any other sector, but many groups, including those in the retail sector, still feel there will be enough pressure put on them that it will not work, that all the protections in the world will not work. I think even the Labour minister said they were not worth the powder to blow it to you know where. With this legislation then, as tough as these guidelines are, do you still not think they would work in order to protect your workers from having to work on Sunday?

Mr Player: No, it would not work in entirety, because there are always ways that people can be pressured.

Mrs Cunningham: First of all, I appreciate your brief and I certainly hope the committee will take your advice

seriously. On page 8, though, there is one part there—I think that in order to find solutions to some of the problems we face in Ontario, we have to put all of our cards on the table.

I have been sitting on the standing committee on finance and economic affairs travelling about the province. Basically, we would add another criterion to your list of reasons. I think we have to recognize that where you talk about the high Canadian dollar, lower prices, lower social benefits and free trade—and by the way, this is an excellent brief—the other one that should be in there is wage rates.

It actually is at the top of the list by presenters to the finance committee. I do not think that would be true in the retail sector, I am not sure, but I wondered if you would respond to that in some way, because it is right up there on the list in that we have higher wage rates in Ontario, maybe not in retail but certainly, I suppose, in manufacturing or something. I just wondered if from your position, because you are the international representative, you might respond to that, because that has been the position from the economists in almost every city. It has been added to the list as a variable.

Mr Player: Some of the wages in the retail are higher and some are lower. Of course, everything we are buying is higher, so putting it all together, I think the balance is there.

Mrs Cunningham: The other one, as my colleague reminds me, that is missing there, and the second one on the list for the finance committee—and I am just giving you some information here and asking you to respond, perhaps—is the taxes, which are not there on your list.

Mr Player: That is true, yes, taxes.

Mrs Cunningham: So wage rates and taxes happen to be one and two, in that order, on behalf of the economists who talk about our competitiveness. I think it goes down into the cost of a product in the end.

Mr Player: There is no doubt that taxes are a big thing.

Mr Kormos: Listen, I suppose the question might be, when you are looking at this legislation, “Where’s the beef?” I was part of that small group of 19 opposition members who really laid into the Liberal government for its proposal of local option. I did not think too much of local optioning back then as a member of opposition. Nothing has happened to change my mind.

I appreciate that perhaps you have been somewhat generous, at least in spirit, to us, and I am sure the Premier and the government appreciate that, but can I read between the lines? If you had your druthers, because we want a common pause day and we want one that is going to work and one that is going to benefit workers and families, would you have a provincial regulatory body that would do the determining as to who is open and who is not, rather than leaving it up to local option?

Mr Player: I certainly would.

Mr Kormos: God bless.

Mrs Cunningham: The only thing that was missing was his colleague with the chicken. Mike Farnan used to bring a chicken and put it out on the end of the table and say, “You’re taking the chicken way out.”

Mr Morrow: There has been a comment made by my colleague Mr Kormos, and made today by Mr Carr, that you could drive a truck through this legislation.

Mr Kormos: A Mack truck, a Caterpillar tractor.

Mr Morrow: I will tell you right now, I would rather drive a Mack truck through this legislation than go through the previous bills, 113 and 114, because you could put an airplane through those. So my obvious question is that I want to talk to you about the employment standards that we basically have done. Not a lot has been said here about it. We understand that there was a study done and that most people in Ontario really do not want to work on Sunday. As a matter of fact, over 75% of the people in Ontario do not want to work on Sunday. Does that concur with your membership?

Mr Player: Oh yes, I would say so.

Mr Morrow: That is the answer I wanted, thanks.

Mr Fletcher: The one thing I am looking at is the 7,500 square feet. I had this fellow come to me who owns some of the big drugstores and he was lobbying me. He said, “You know, if you cut it down to 2,400 square feet, 3,000 people are going to be out of work.” He had the manager from my riding sitting there, and 45 people are going to be out of work because he is going to shut right down. Is the 2,400 square feet, as far as the pharmacies are concerned, realistic, in your opinion? Do you represent any people who work in pharmacies?

Mr Player: Yes, we have pharmacists and, sure, it is realistic.

Mr Fletcher: They are completely in favour of this?

Mr Player: They have no problem with it.

Mr Fletcher: Would you like to see the legislation tightened up so that you cannot get that Mack truck through any more?

Mr Player: That would be great.

1130

The Chair: Our next presenters have not arrived and we are at the time for their presentation. I would like to make a couple of announcements before we recess. One is that as well as our next presenters not being here, our 1:15 witness is not going to be with us either, so we will be recessing until 1:30. For anyone who feels like smoking, those ashtrays are the property of the hotel. You can use them outside of this room but not in here, unfortunately.

The up-to-date summary of presentations has been handed out to members. This replaces the summary that was received two weeks ago and brings us up to last Thursday.

Mr Kormos: I just wonder, in view of the fact that we have a little gap in time here in presentations, if you might canvass the audience or if there are any people here who had come with the intention of making a presentation and may not have been scheduled. Is that possible?

The Chair: We can certainly do that. We would have a 15-minute slot available to us this morning. It is an unusual situation. Is there anyone here who is already on the list this afternoon?

Following Mr Kormos's suggestion, we do have the possibility of having a 15-minute presentation now from a gentleman who would be here this afternoon. That would allow more freedom this afternoon to be more flexible and possibly leave earlier. Is it the consensus of the committee that we go ahead with that? Thank you.

ROBERT SAGE

The Chair: Mr Sage, the clerk informs me that the committee members have already received a copy of your presentation in Toronto. Please go ahead, sir.

Mr Sage: I live in Sarnia and I have driven down with the intent of spending the day here, not just for my own presentation but also for what other people are saying. This morning I asked the clerk or the lady in charge if she would hand out a supplement to my original submission. I beg for the privilege of referring not only to my original submission which was sent in earlier—I received acknowledgement of that—but I would like to have the opportunity of cross-referencing and referring to what I asked to be handed out this morning.

I want to limit my presentation to seven minutes and I hope perhaps, in the time that is left, you will question me or grill me or whatever the word is that perhaps would be appropriate in this case. I appreciated also notification that I would be limited to 15 minutes and the suggestion that perhaps half that time should be spent, as I said, in the seven minutes.

Also, I appreciate the suggestions which are outlined in the guide, that I should deal specifically with the subject matter, which I will try to do. It may be of interest to know that it was mentioned this morning that our mayor Bradley is holding a public meeting tonight and that is part of this morning's publication. There is a meeting tonight in Sarnia and I question whether or not the date of the 27th was by design or just coincidence that it ties in with today's meeting here in London. By the way, if I may diverge just a moment, this location has certainly changed since I was here in the early 1940s as a sergeant in the army.

Mr Kormos: For the better.

Mr Sage: For sure; you want to believe it, all the footwork I have done up and down these hallowed halls. I just want to make one more comment, without being derogatory or libellous. It could be considered that our mayor in Sarnia does perhaps have a conflict of interest. There should be a possible awareness that his father is a top union boss in one of the unions in Sarnia. I think perhaps that would explain his presentation this morning in regard to personal and business feelings in the matter.

This other important matter here I think is absurd. I think it is ridiculous. I may suggest it is ridiculous that I cannot buy my food on Sunday but I can go down on Sunday and fill my belly with beer and watch some naked female gambolling on a table. I should just suggest that we either have Sunday openings entirely or close it down altogether, particularly when we have such as this now being permitted in Sarnia seven days a week. I do not know whether to cry or laugh in regard to that.

I did make a presentation—the clerk took that away from your material that I handed out this morning—I be-

lieve in February of 1989 to the city of Sarnia. My intended presentation stated, "It will be to promote, as a private citizen of this community, full Sunday shopping." I might add that the city council in Sarnia allowed me the 10 minutes, cut me off and proceeded then to make a bylaw or a ruling that no one else would be heard from there on in and perhaps it would set up a committee a year from now for anyone else who wants to make a presentation for or against Sunday shopping in Sarnia. That was in 1989.

I have not lost interest in this Sunday shopping. I am a person who is free-minded. I fully believe in free enterprise. I have studied Adam Smith, the Scottish professor back in the 1700s, his *Wealth of Nations*, free enterprise, free trade and fair play. He was a professor of political economics and moral philosophy and I submit to the committee here today that it should take into every consideration the potential for this society of ours, which is capitalistic.

Money: The whole system evolves and revolves around money, and I am a proponent or a supporter of the idea that we have free enterprise. There should be freedom of choice. Individuals, businesses and corporations should have the free choice to decide what and how they wish to conduct their business. I hear legislations and changes to your points, items, and have become quite frightened that we have lost enough of our freedom now. I feel that with the current legislation, and particularly if suggested changes are made, we will become strapped and strangled with overbearing government control.

I am quite familiar, quite cognizant, quite aware of the so-called holy day, the blue laws. They go back to 1905, I guess it is, the various dates. This is in the mid-1930s: I was helping my father paint a fence on our own property when two pious-looking gentlemen came up and threatened my father with a lawsuit because he was painting his own fence on Sunday. I was born in 1926; I was seven or eight or nine years old. That has never left my mind, and I have always investigated and attempted to understand why some people have the control or the power or influence on others on such a thing as what they do on a Sunday.

1140

I might mention also this common pause day. I worked 35 years for an organization, the postal service. I was quite willing to run your mail out of here, leave my family at 8 o'clock in the morning on a Sunday and on a holiday, Christmas Day, to run your mail, perform a service. I also did not hesitate to accept Sunday work to sort your mail. I can understand perhaps married women who have left their children at home and they want to get home to the family on Sunday, but I will give you an example of my next-door neighbour, at least close to next door. He was very filled with anguish with me because I was suggesting we have Sunday shopping. I asked him, "What do you do on Sunday?" As soon as they leave church, they hike right over that border and spend their Sundays together over in Port Huron.

I am not sure whether I am promoting the idea or at least getting the idea across that I believe there should be wide-open freedom on Sundays. If not that, maybe we should investigate New Zealand, which I understand was

quite imbued with the idea and practice of Saturday and Sunday, two days of so-called common pause.

I was heavily involved with the unions as the president and secretary of the Sarnia labour council 1968, 1969 and 1970 and there on, and I was also heavily involved in the executive for numerous years in an organization which maybe you are familiar with called the Canadian Union of Postal Workers. I am suggesting that the unions should, first of all, attempt to promote employment, be it part-time or full-time. I think the union's duty is to promote employment. This idea of a person being forced to work overtime is wrong, I would say. It is not the right tack to take. In my organization, CUPW, we had equal opportunity for work lists. If you wanted to work, you were approached. If you did not want to work, fine, it went down to the next person on the list. We were given equal opportunity to work overtime.

The churches: I am very disturbed with the churches attempting to force us into the various factions, the numerous types of churches and beliefs, and force their beliefs on to people such as myself who, as I said earlier, are free thinkers. I will act as I morally feel I should act in regard to maintaining one designated day for religion and what not. The chamber of commerce in Sarnia has changed its mind just as the city councillors have changed. They came out a year or two years ago claiming they did not want to have their stores open on Sunday. If you go by the newspaper reports, you will find that the chamber of commerce now has reversed itself in Sarnia. In fact, they have already publicly stated that they are in favour of free enterprise and that those businesses that wish to stay open should be permitted to stay open.

I do not know what else I should cover here. I feel I am an ordinary rank-and-file member of the unwashed; that is, I am just an ordinary citizen. I had a shower this morning; I do not mean it that way. I am expressing myself today as a common, ordinary citizen, not representing any body and not representing any particular group. In fact, I was very upset when I made my presentation in 1989 to the city council. A top-ranking union man came down before I went before the stage and said he just came down to see if this was the same Bob Sage with whom he associated in the labour movement. He was quite upset. He wanted to know what business I was representing. I said I was representing no one but myself. He said this Retail-Wholesale Department Store Union had made comments like, "That Sage had better not go through my cashier's checkout." That was a threat made to me because I was making a presentation as an ordinary citizen interested in Sunday shopping, and particularly interested in trying to protect my right to shop on Sunday if I so wish. Have I left time for questions?

The Chair: No, you have not. If you would like to pose a question, Mr Daigeler, please feel free.

Mr Daigeler: Well, as always, we are allowing one question per caucus. Do we have consensus on this? I do not think it is up to you to decide this, Mr Chairman.

Interjection: There is no consensus.

The Chair: Time is up. Thank you very much. We are recessed until 1:30.

The committee recessed at 1147.

AFTERNOON SITTING

The committee resumed at 1331.

FREEDOM PARTY OF ONTARIO

The Chair: I would like to call on Robert Metz of the Freedom Party of Ontario. After you have finished with your presentation, if you could leave some time for the committee members to pose questions to you.

Mr Metz: I would like to thank everyone here for yet another opportunity to expound our views on another issue that is of public concern.

I am Ontario president and official leader of the officially registered Freedom Party of Ontario. We have been campaigning on the issue of Sunday shopping rather intensively since late 1986 when the Supreme Court of Canada ruled that it was a justifiable infringement on religious freedoms to continue with the Retail Business Holidays Act as it was in effect at that time.

So here we are again today on yet another bill that will affect this legislation, and once again Ontarians are confronted with dramatic evidence of this government's hostility to their fundamental freedoms and of this government's continued movement in a political direction that has proven socially and economically destructive to every political jurisdiction that has tried it. This time the evidence is presented as Bill 115, which contains amendments to the Retail Business Holidays Act and the Employment Standards Act presented under the guise of employee protection.

From the outset Bill 115 is tragically flawed even by its own terms of reference and more important, like the Retail Business Holidays Act and many of the provisions of the Employment Standards Act, the bill is unsupportable in matters of principle, equity, fairness and justice. It is an utterly destructive piece of legislation in terms of its contribution to a healthier economy and to the prosperity of Ontarians everywhere.

In the explanatory notes accompanying Bill 115, it is stated that "part I of the bill establishes the principle that retail business holidays are common pause days" when in fact Bill 115 actually does the very opposite.

By definition, a principle is a fundamental truth, a law, a doctrine or motivating force upon which all others are based. When a bill enacts into law forced Sunday closing on the retail business sector but chooses to exempt retail business establishments which (1) "sell prepared meals," (2) "rent living accommodations" or (3) are "open to the public for educational, recreational or amusement purposes," which could include almost any kind of shopping and which gives a host of discretionary powers to politicians, it is clear that there is no principle of a common pause day involved behind the legislation since the law is applied arbitrarily and inconsistently and since it does not apply its so-called principle equitably.

However, Bill 115 does establish or rather re-establish another negative principle, perhaps most familiarly expressed as the divine right of kings. Only in this case, in the absence of a ruling monarchy, it has now been updated to mean the divine right of politicians.

Consider that the subjective nature of Bill 115 is absolute. The bill grants to the province the exclusive privilege of "prescribing tourism criteria," the establishment of "procedures" and the setting of "fees for processing applications." Arbitrarily, the bill even allows the government to prescribe different tourism criteria for different classes of retail and even "may permit the opening of retail business establishments on some holidays and not on others."

On the municipal level, Bill 115 grants to municipal councils the right to establish yet another set of procedures and the right to set even more "fees for processing of applications." Then, as if to emphasize the dictatorial nature of the bill, the municipality "is not required to pass the bylaw even if the tourism criteria are met," and is granted absolute power in the matter since "the council's decision is final."

In the event an employer should be ordered to compensate an employee as a result of contravening the proposal set out in Bill 115, an "employment standards officer shall determine the amount of the compensation," though no specific process is actually mentioned as to how the officer might determine such an amount. With minimum fines of \$500 for a first offence against the act and a \$2,000 minimum fine for any subsequent offences, it appears our socialist government has discovered yet another clever means of redistributing other people's hard-earned money.

How subjective and undemocratic can you possibly get? One is forced to ask what could possibly be considered so threatening about Sunday sales to warrant such draconian responses on the part of our government.

To illustrate my point, consider my own personal experience. About five or six years ago I was the victim of a violent assault. My assailant, who attacked me without provocation, was fined \$50 upon conviction of his offence. It seems disgraceful, to say the least, that a criminal offence involving an act of violence would merit a \$50 fine while the perfectly honest, peaceful and voluntary activity of Sunday shopping merits minimum fines of \$500 and \$2,000. Whose perverted and obscene sense of justice is this?

The worst possible consequences of retail sales on a Sunday include the creation of jobs, the spending of more dollars in Canada to support our local economy and a healthier business environment. Is this a crime?

No, Bill 115 does not even represent a feeble attempt at justice. It has been so designed as to discriminate against and persecute a select class of retailers for blatant political gain.

In reality, arbitrarily restrictive government legislation, like Sunday closing laws themselves, exist to put power into the hands of politicians by removing the right to freedom of choice from the citizens they claim to represent. Sunday closing laws deny freedom of choice to consumers, to those willing to work on Sundays and to retailers wishing to serve their customers on a Sunday.

There is no supportable justification for Sunday closing laws to exist in a free country. Canada's Charter of Rights and Freedoms supposedly guarantees everyone the following

fundamental freedoms: "freedom of conscience and religion" and "freedom of association."

Additionally, the right to open on Sundays is further reinforced by the legal rights and equality rights sections of the charter, to wit:

"7. Everyone has the right to life, liberty and security of the person and the right not be deprived thereof except in accordance with the principles of fundamental justice."

"15.(1) Every individual is equal before and under the law and has the right to equal protection and equal benefit of the law without discrimination...."

Sunday closing legislation also violates fundamental principles of private property rights. Retail business and property owners have been told that every Sunday they will not be permitted to exercise the right to the peaceful use of their own property, and regardless of how they may feel about it and without their consent they must relinquish the normal use of their property or face legal consequences that very few real criminals would ever have to face.

On the operational level, Bill 115 is a potential management nightmare even for retailers who, having somehow magically met the whimsical criteria set by two different levels of government, still manage to be operating on a Sunday. Under notice of refusal, the bill grants an employee the right to refuse an assignment to work on a Sunday as long as he gives the employer 48 hours notice, even if that employee had previously accepted the assignment.

It would be impossible to adequately condemn or further comment on the nature of such an absurd law. Consider that most retail managers plan their staff scheduling far more than 48 hours in advance. With the general understaffing that the retail sector is already experiencing, the confusion and uncertainty caused by such a provision will only cause even more unnecessary conflict and tension between employers and their employees. The only possible purpose of such a provision is to further persecute retailers who manage to get around Sunday shopping laws.

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Bill 115 refers to an employee's refusal to work on a Sunday as "the right to refuse work." It is no such thing. What it really does is take away the employers' right to refuse employment. Why should an employee who refuses to work—and I mean refuse, not who is unable to work, but who refuses to work for whatever reason—be granted the right to continued employment when that right should justly belong to those who are willing to work? Where is the moral, ethical or even plain common sense justification in forcing an employer to retain an obviously unwilling employee when there are more than enough willing individuals in need of Sunday employment? What about the rights of those who are unemployed or underemployed as a result of Sunday closing laws?

Bill 115, like the legislation it is attempting to enforce, is a complete travesty of justice. As is typical with virtually all social legislation, Bill 115 does not deal with any real issue. The real issue, that is, what is at stake in the Sunday shopping controversy is our individual freedom of choice and the rights and responsibilities that go along with that freedom. Sunday shopping is merely a political event and is one of the many similar events that have been

created by continued state infringements on our freedom of choice. Political issues and events are entirely different things and one of the first things we must learn is how to distinguish one from the other before we can ever hope to be able to focus our energies on the issue. After all, if we cannot even identify an issue, how can we ever hope to do anything about it?

Sunday shopping is not the issue. Freedom is. The principle at stake in any political debate essentially boils down to this choice. Do we want to live in a society based on the principles of consent, or do we want to live in a society based on the principles of force? Is it morally acceptable for some of us to be allowed to force our choices upon others or should all individuals be free within the context of a non-coercive, voluntary framework to make their own choices for themselves? This is not a choice open to compromise. Force and consent are opposite principles. They cannot be mixed.

The real tragedy behind Bill 115 and the legislation it attempts to force upon a select minority in this province is that it once again attests to the shameful and blatant disregard our elected officials continually exhibit towards our fundamental freedom and rights. We never thought we would see the day when earning one's livelihood through gainful employment would be considered a crime, but that is exactly what Sunday closing legislation attempts to do. What has happened to our once free, competitive and prosperous province? It used to be that we rewarded those in our community who worked overtime and extra days to get ahead. We had the right and the incentive to work harder and make a better life for ourselves and for our families. Regrettably, political interests have decided that the only competition they have any interest in is that between various left-wing and right-wing lobby groups and parties who all want to claim credit for the privilege of robbing us of our freedom of choice on a Sunday.

On the political left, organized labour groups protest against the freedom to trade on Sundays because they fear the prospect of having consumers dictate to labour as they do to business, and not the reverse, which is what they want. On the political right, some businesses who think they deserve government protection also do not like being dictated to by the consumer so they support legislation against other business people who see the profit to be made by doing so. What both sides have in common is the belief that someone else's freedom of choice somehow imposes an obligation on them. But what really motivates them is a greed for the unearned. They both want the market to be put on hold until they are willing to participate. Because they have chosen to stay home and rest, they would deny the economic benefits created by working on Sundays to the very people who create those benefits, all in the name of claiming their fair share.

Yes to freedom of choice in Sunday shopping. Freedom Party strongly opposes all Sunday closing legislation because Freedom Party believes that the purpose of government is to protect our individual freedom of choice and not to restrict it. Governments and politicians of supposedly free nations have no right to impose the values and choices of others on any of us.

Whether an individual chooses to remain home, to work, to shop or to attend the church of his or her choice, we believe that choice belongs only to those individuals, even on a Sunday. Thank you.

The Chair: Thank you, Mr Metz. We have about four minutes per caucus.

Mr Daigeler: I am wondering how you feel about the freedom not to work.

Mr Metz: Everyone has that freedom. No one can force a person to work.

Mr Daigeler: The retail workers, the unions that have appeared before us, have been arguing quite forcefully that there would be pressure. In fact, according to them, there already is undue pressure on them to work on Sundays. How do you feel about that?

Mr Metz: There is no pressure on them to work. They can stay home and let other people work. What the unions' interest is in is maintaining a labour monopoly and excluding those who are willing to work from the labour force. We have seen this in evidence today at the postal station. We see people, I heard, standing there with clubs with nails in the clubs, threatening to blow people's tires out, which I regard as a complete and blatant act of violence and force, and this is what basically motivates them. So when we look at the opinions that are behind a union, we have to understand the nature of a union. It is not in the interests of unions to see to it that there is competition in labour, at least not with any evidence I have at my disposal, though you are certainly more than invited to present such evidence.

Mr Daigeler: Could you tell me a little bit about your party? I am not familiar with it. How many chapters do you have in the province?

Mr Metz: We are provincially registered in Ontario and we have currently 13 registered constituencies. Our platform was already read. Basically, we are a party that applies the issue of freedom of choice to every political issue. In fact, if there is one thing I learned in observing politics before I founded and helped start this party, it was that unless an issue has to do with freedom of choice, it just is not in the political realm. That is what we are always arguing about. We are always arguing about each other's right to make choices. I have yet to hear an argument from any person in this room, from any person from any lobby group, to suggest to me why there is any moral right or any legal right, or why there should be, for some people to tell other people how to live their lives. We certainly have a right to protection from each other, but we do not have the right to impose ourselves on others. That is fundamentally what the Freedom Party is all about.

Mr Poirier: At the bottom of page 5, under your "Tragic Legislation" heading, it says, "It once again attests to the shameful and blatant disregard our elected officials continually exhibit towards our fundamental freedoms and rights." Are you of the opinion that only those who support the Freedom Party respect freedoms and rights?

Mr Metz: No, I am of the opinion that only those who respect individual freedoms and rights respect them. Any

number of groups—lobby groups, political parties—could easily stand for these principles. I do not claim a monopoly on them, nor did I invent them. I had to spend a great deal of time discovering them and learning them. In my work and in my studies I have learned that much of what our governments are based on is completely upside down and not the way government should work at all, and that the nature of every conflict we see politically is because some people are infringing their choices upon others. I think that is the proper job of government, to establish where these lines should be drawn, but clearly, if we are going to believe in a free society, individual freedom of choice must be paramount. We have seen what its absence does in countries around the world and we see what is happening in Canada today.

Mr Carr: I was wondering if you could tell us what you see happening, because you talked about some of the reasons for wanting the freedom of choice, but if that happened in this province, how would you see it working? Would you see a lot of the province open? Would you still see some parts of the province closed? Maybe you could just let us know if it came about what would happen.

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Mr Metz: The entire beauty of freedom of choice is that all possibilities are possible. Some people who find that staying open on Sunday is not profitable will choose not to remain open; those who find it very profitable will open. There is no conflict here. There is no reason for one person to be on someone else's neck. We have progressed far enough—I mean, come on, folks, we are almost in the 21st century, and we are still arguing about Sunday shopping? On a scale of important issues, this is probably at the bottom of the barrel.

But look at what it really says about how our government is operating. The fact that I see this many people sitting here before me, and the salaries you must all be receiving and the time that is being expended on an issue that is not even an issue—this is a tragedy. I do not know how you can regard it as anything else. This is really what has to change in this country.

Mrs Cunningham: We have heard each other's views before. I happen to think there is too much legislation as well. I think the most important thing about the process is that we are talking about it publicly. This justice committee would be looking at legislation, and this government feels this is something it wants to be able to deal with before December, because the province has been left up in the air with regard to any law on this issue for the last four years.

I would like your opinion on something. Somebody asked me this question and I could not answer it. I thought you could, so I will ask you. About 15 years ago in this province, the argument at that point in time was, "How many more stores will we allow to open on Sundays?" In fact, this province has been shut down for decades. I thought that was an interesting twist to what we are talking about. Without public hearings, stores closed on Sundays as a result of our heritage, I suppose, in the province, and the arguments now are who can be open, actually.

The other part of the consultation I was having, and I thought it was an interesting one, had to do with the fact that right across North America this is an issue, but it basically is not an issue in Europe; you just simply would not be open. You say the 21st century. I suppose you could take the time to comment on the difference between basically the American way of life—I am now talking about the US—what they have chosen to do as opposed to what they have basically chosen to do in Europe.

Mr Metz: Certainly if it were a choice, and a true, free choice, I have no contest with that. If a retailer realizes that no one is going to shop between certain hours of such and such a day, it is not in his interest to open, I would not think. But the idea of imposing that choice on them by the means of law is another matter entirely.

You began your comments by saying you agree that there are too many regulations, yet am I not correct in assuming, Dianne, that you have supported Sunday closing legislation? How do you reconcile those two points of view?

Mrs Cunningham: I suppose what I am doing is supporting Sunday opening legislation because all stores were closed in the province of Ontario during the 1950s and 1960s. It was not until the late 1950s that people were allowed to open. All we are trying to do is revisit—I would not have revisited the old law myself. The old piece of legislation that worked for probably three decades in the province was only changed because somebody could not make up his mind as to whether the Eaton Centre was a tourist area or not. There was not a lot of controversy over Sunday openings until the Liberals, quite frankly, made that their issue, and that was to take a look at a common pause day.

Mr Metz: In the first part, I think you are making a mistake to say there was no controversy. There may not have been a political one, but there definitely was an economic one and there was a personal one to the people who were directly affected. The fact that at a certain time in history they may have felt that there was no recourse whatever to government to change it or to do anything about it does not mean it was being openly accepted.

Mrs Cunningham: I would like to debate it, but personally, this legislation is on the bottom of my list too, so we agree on that. How you can say that this is an economic issue as opposed to a quality of life issue?

Mr Metz: I did not say that, so I do not know how I could say it.

Mrs Cunningham: You did say it was an economic issue.

Mr Metz: I stated that there were economic repercussions to the issue. The issue is basically a moral issue. It is a matter of choice.

Mrs Cunningham: Okay, that is fine, then we agree. I just thought I heard you say it was an economic issue.

Mr Metz: But the thing is, moral issues need freedom of choice. You cannot say, "I agree, but I agree that I'm going to force my choice on someone else," because then you do not believe in their freedom of choice.

Mrs Cunningham: Unless you think that the freedom of choice is for a person to work or not work. From the bottom of my heart, the reason that I do not like Sunday shopping is that I have not met anybody who wants to work on Sundays in retail stores, with the exception of a few students going through school.

Mr Metz: I will tell you that, depending on how you word the question, you could get that same response to, "Do you want to work on Monday, Tuesday, Wednesday, Thursday, Friday or Saturday," given the choice of a law being there that would stop you from having to work on that day.

Mrs Cunningham: Unfortunately, in our society I think there are few who would answer that way right now; they do not want to work at all.

Mr Metz: They would, but that does not make it right. I think that is where we have to address this issue at its fundamental nature.

Mrs Cunningham: We both agree that it is at the bottom of our list.

Mr Fletcher: I have a couple of questions. If your political party were to become the governing party in Ontario, what would you do with the Retail Business Holidays Act?

Mr Metz: We would toss it out. We would repeal it immediately.

Mr Fletcher: But then you would become like any other political party.

Mr Metz: How so? All the parties here support Sunday shopping legislation.

Mr Fletcher: Yes, but you would be throwing out a piece of legislation, and that is your party's stand, and yet you are telling me that governments and politicians—

Mr Metz: No, our party stand is freedom of choice.

Mr Fletcher: —of supposedly free nations have no right to impose the values and choices of others on any of us.

Mr Metz: That is right.

Mr Fletcher: And yet if I disagree with what your party is doing, you are imposing what you believe on me.

Mr Metz: Not at all, because the fundamental nature of my belief is that you do have a right to your beliefs. If you want to live in a communist society, you can set up a commune apart from everyone else within a free society and run it on those principles, as long as the people within those borders are there voluntarily.

Mr Fletcher: As far as the Supreme Court of Canada is concerned, would you also get rid of that?

Mr Metz: Get rid of the Supreme Court? Absolutely not. However, I would strongly lobby for the inclusion of private property rights into the Constitution so that we would have some way to enable us to use the other rights that are listed there.

Mr Fletcher: And if the Supreme Court of Canada made a ruling on certain issues, you would abide by those rulings?

Mr Metz: We have to. It does not mean I agree with them. I mean, I am forced to abide by Sunday shopping

laws. When I go to that grocery on Sunday morning, I cannot break in, even though he might want to let me in.

Mr Fletcher: In 1986 the Supreme Court of Canada decided six to one that the Retail Business Holidays Act, even if in violation of some people's freedoms, is valid legislation by virtue of section 1 of the charter.

Mr Metz: That is right.

Mr Fletcher: And you would repeal that piece of legislation?

Mr Metz: Absolutely. The "notwithstanding" clauses in the charter are devastating to this country. You have to ask yourself, when the Supreme Court of Canada openly admits that it is justifying legislation that violates our individual rights, then what is it there for? Is it not the purpose of a court in a free society to protect our rights?

Mr Fletcher: When the Supreme Court makes a decision, you said you were willing to abide by it.

Mr Metz: I have to abide by it.

Mr Fletcher: Right, so when the Supreme Court did say that this law was valid, you would abide by the law.

Mr Metz: I have been abiding by it, but I am working to change that law.

Mr Fletcher: But you would throw it out if you became the government of the day.

Mr Metz: Definitely.

Mr Fletcher: When you talk about politicians—and we are here to listen to some of the things—do you not become the exact same thing that you are arguing against? You are a politician.

Mr Metz: No, I am not arguing to be given the political power to make other people's choices for them. If I were to be elected, I would want to go to Parliament based on the idea that people voted for me not to represent their interests, but their rights, and that is a big difference.

Mr Fletcher: That is where people's freedom of choice comes, at the ballot box. Is that not correct?

Mr Metz: That is one place to get a choice.

Mr Fletcher: I hope it stays that way.

Mr Metz: I do too. Free elections are essential to a free society.

Mr O'Connor: You have really piqued my interest in your party and some of its philosophy. I was just wondering, in a party like that, how could you possibly have any leadership? If you have 13 constituencies represented, there must be a riding association with a leadership role to it of some sort?

Mr Metz: You have to be aware that we are starting at the grass-roots level. We are not a reaction to any particular issue or movement.

Mr O'Connor: To my question, how then can you possibly make sure you protect everybody's rights to freedom if you have somebody in the leadership role when everyone has the right to that leadership, and then you are denying somebody's rights if there is one leader?

Mr Metz: That gets back to the very basic thing that you were talking about initially, the philosophy of the

party. We have a stated statement of principles on which the party is founded. Anyone who represents our party either in a leadership capacity, or as a candidate or as a member of the provincial executive, must abide by those principles or otherwise he can be kicked out. It is as simple as that.

Mr O'Connor: Very interesting. Thank you.

1400

ONTARIO HOTEL AND MOTEL ASSOCIATION TOURISM ONTARIO INC

The Chair: We now have a presentation from the Ontario Hotel and Motel Association, Mr Ted Zientara. You have been here for the past half-hour so you are aware that you have half an hour, and if you could divide that and allow members some time to ask questions.

Mr Zientara: Thank you for giving me this opportunity to restate the position of the Ontario Hotel and Motel Association of which I am past president, and Tourism Ontario Inc, of which I am chairman of the board. Tourism Ontario is a non-profit private federation of hospitality and travel associations throughout the province representing more than 7,000 businesses and enterprises.

We strongly support the clear majority of Ontarians who favour unrestricted Sunday and holiday shopping, and we believe unrestricted retail shopping should be permitted throughout Ontario where and when retail business establishments perceive the need to provide it. Sunday shopping has become an economic necessity for many thousands of Ontarians as they struggle to balance their job and career circumstances with personal and family responsibilities. Sunday and holiday shopping is also a primary tourism activity for families and individuals who travel to and within our province and who combine shopping with entertainment, sightseeing, touring, dining, culture and the arts, recreational activities, festivals and events.

In virtually all research of resident and foreign visitors' travel in Ontario, retail shopping constitutes one of the top three tourism-related activities. In 1988, for example, retail purchases represented \$2.2 billion of all tourism expenditures in Ontario. Direct jobs in that year created by the retail sector amounted to the equivalent of 29,000 full-time jobs, or 14% of total direct employment in the tourism sector. The total impact of tourism-related retail purchases in 1988 on tax revenues generated by the province was \$366 million; \$134 million for Ontario municipalities and \$602 million for the federal government. The majority of all tourism-related activities, including retail shopping, takes place on weekends.

We know there are thousands of Ontarians who are available to work, want to work, and should have the right to work in a retail business, or retail business establishment, on Sundays and holidays. Currently, these persons are virtually the only class of workers who are restricted from, or altogether denied, the right to work and earn incomes in most of this province on Sundays and holidays due to existing provincial legislation and municipal bylaws. We are of the firm opinion that unless and until the government of Ontario is prepared to recognize these fundamental

rights, freedoms, and marketplace realities by abolishing the Retail Business Holidays Act, Ontario tourism and retail businesses will continue to lose billions of dollars worth of taxable annual tourism and retail sales to bordering American jurisdictions which are wide open for retail business on Sundays and holidays.

Our largest market by far, for non-resident visitors to Ontario, is the United States, accounting for 23.1 million person-visits in 1990, with the bordering states of Michigan, Ohio, New York, Pennsylvania, and Minnesota accounting for the vast majorities of said visitors. Conversely, all of these states aggressively promote their tourism and hospitality products and services in Ontario.

These states are all non-blue law states, with Sunday shopping acting as a magnet to lure Ontarians by the hundreds of thousands across the border every weekend to purchase all manner of retail merchandise. We estimate that every Ontarian who visits the United States for 24 hours or less spends a minimum of \$100 on retail purchases, fuel, meals and entertainment.

According to Statistics Canada, between January and May 1991, 9.89 million Ontarians made same-day trips to the United States. Of these trips, 70% were on weekends and 40% took place on Sundays and holidays. Similar weekend percentages apply to another 2.2 million Ontarians who travel to the United States for one or more nights during the same period. From a recent study of cross-border shoppers in Kingston, Ontario, conducted by Ernst and Young, there is clear evidence that for every dollar which Canadians spend on cross-border shopping, they spend an equivalent amount on services such as food, fuel, and entertainment.

We in the Ontario tourism industry wish to publicly commend the Honourable Peter North, Minister of Tourism and Recreation, and his ministry staff for their sincere efforts to establish province-wide standards and criteria for tourist area exemptions, and exemptions for associated retail business establishments on Sundays and holidays. It has been an arduous task for them to endeavour to find a balance between the provincial government's commitment to a common pause day for Ontario, while recognizing the value and vital importance of tourism to hundreds of communities throughout Ontario.

Both the public and private sector in Ontario tourism have made enormous investments in the planning, development and promotion of a broad and diverse range of tourism and hospitality products, services, and experiences to service ever-changing contemporary consumer tastes and demands. A good number of Ontario's tourism and hospitality enterprises are fully integrated retail business establishments which cater to their patrons' requirements by providing various retail services, in addition to food service, lodging, entertainment, recreation, auto and/or boat fuelling, parking and storage and servicing facilities seven days per week. Said retail services include stores, shops and boutiques which supply all manner of sundries, groceries and outdoor provisions, clothing and travel services, vehicle and boat rentals, specialty gift items, antiques, crafts and souvenirs. The provision of these retail services on Sundays and holidays represents upwards of 20% of

gross weekly sales for numerous tourism and hospitality enterprises, most of which are taxed by the province.

Regrettably, from our perspective, this forced marriage of incompatible circumstances, one being philosophical and social, ie the common pause day, and the other being an economic reality, ie retail shopping as an integral part of tourism throughout Ontario, will result in costly and time-consuming administrative burdens and litigation.

The concept of a common pause day in Ontario is outdated, outmoded, unnatural and misplaced. In our contemporary and pluralistic society, tens of thousands of Ontarians must work at all hours of the day and night, throughout the week, in resource industries, in the processing, manufacturing, packaging and distribution of all manner of products, and in the provision of a broad range of goods and services to our citizens and others. While some people rest, others conduct business and provide services.

The Ontario tourism and hospitality industry must provide value-for-dollar quality and experiences and good service on an uninterrupted basis to patrons from domestic and foreign markets seven days per week and 365 days per year, with some seasonal and geographical limitations. The market appeal of our industry is driven by the demand created for its products, experiences, and services in an extremely competitive international market, and the supply of them by willing entrepreneurs, professional management and staff and, to a very substantial extent, by various Ontario government ministries and agencies. We must provide these products, experiences and services to our patrons when they want them or risk losing them to other competing jurisdictions. Thus the concept of a common pause day is totally alien to our industry and to many other segments and sectors in our economy.

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Whereas Bill 115, the Retail Business Establishments Statute Law Amendment Act, 1991, makes an honest attempt to support and protect Ontario's tourism industry through the provision of province-wide tourism criteria to exempt qualifying retail business establishments from Sunday and holiday closing requirements, it also establishes a minefield of obstacles and potential obstacles to the realization of these objectives.

For example, it openly discriminates between large and small retail business establishments on the basis of floor space and number of persons serving the public. It also allows municipal councils to refuse to pass a tourist area bylaw, even if an area within the municipality meets the provincial tourism criteria and qualifying retail business establishments apply to council for Sunday and holiday closing exemptions.

Further, all decisions in this regard by municipal councils are firm and final and non-appealable, and must be made within one year of the proclamation of Bill 115. Not only that, but municipal councils are granted the continuing right to discriminate openly against different classes, types, sizes and locations of retail business establishments, and to limit the number and the time frames within which councils will receive applications for Sunday and holiday closing exemptions from retail businesses.

We in tourism have never attempted to quantify or qualify what constitutes tourism-related retail business activities any day of the week. We believe that the free market will respond as required. Tourism per se is the direct supply of goods and services to facilitate business, pleasure and leisure activities 40 kilometres or more away from the home environment—that is by provincial definition. It covers a broad range of products and services, including transportation, accommodation, food and beverage services, live and participatory entertainment, festivals, events, culture and the arts, athletic competitions, business and social gatherings, conventions, meetings and symposiums, amusement activities and, to a significant extent, retail shopping in all of its dimensions.

We must all strive to build a better, more prosperous Ontario, but we can only do so with the assistance of responsible and responsive public policy.

In conclusion, Sunday and holiday shopping has become an economic necessity for many thousands of Ontarians as they struggle to balance working realities with personal and family responsibilities. It is also the primary tourism activity for families and individuals who travel to and within our province, and who combine shopping with entertainment, sight-seeing, touring, dining, recreational activities, festivals and events.

The province of Ontario and all municipalities in the province benefit directly and considerably from tourism expenditures. Both levels of government are constantly searching for new and incremental sources of revenue to fund all manner of social services, enhanced and enriched education for our citizens, better health care, improved roads and affordable housing.

Government recognition and protection of tourism values and the operational realities of our industry, at both the provincial and municipal level, will enhance significantly the ability of government to provide said services for our citizens.

While we commend the efforts of the Minister and the Ministry of Tourism and Recreation to recognize the value and importance of tourism in Bill 115, we are very concerned that the full potential of our industry, as it relates to Sunday shopping as a major tourism activity, will not be realized until significant amendments are made to the Retail Business Establishments Statute Law Amendment Act. We respectfully recommend, therefore, that the standing committee on administration of justice and the government of Ontario seriously consider all the facts and recommendations which we have rendered in our submission.

Mr Daigeler: The tourism industry has certainly been arguing very strongly in this round of hearings that Sunday shopping is, in their opinion, even vital for the industry, not just for the growth but for the survival of the hotels, motels, and everybody else associated with this particular industry. Did you make the same point during the last round of hearings when the Liberals—us, that is—were making these changes?

Mr Zientara: I am not familiar with whether we did or not, since I was not a part of that process. However, our position on this particular issue, I assume, has not changed.

Mr Daigeler: You were not involved yourself, then?

Mr Zientara: No, I was not.

Mr Daigeler: I am asking that question because, quite frankly, I find the argument—and I got the same response from the other representatives of the tourism industry—a little bit weakened by your absence in the last round of the hearings. The same argument ought to have been made then and I am just wondering why the tourism industry is all of a sudden so concerned about this issue?

Mr Zientara: I would speculate that we were probably a part of the hearing process and that our position at that time is the same as it is today.

With respect to the impact of economic circumstances on our industry, recent statistics provided to us by the Canadian Tourism Research Institute indicates that tourism to Ontario between January and May of 1991, as far as hotel occupancy, is down by some 15%, and a survey conducted by the Canadian Travel Survey published in February of 1991 by Statistics Canada clearly identifies shopping as being the primary activity of those individuals who come to Ontario: 41% percent of respondents named shopping the activity in which they most frequently engaged, followed by sightseeing at 40%. Dining only accounted for 34%; attendance at festivals and events and sporting events each accounted for 10%. Of course, those figures will add up to more than 100% because tourists will often engage in more than one singular activity, but shopping is clearly the one activity which most visitors to this province engage in when they come to Ontario, or wish to.

We are faced with the complexity of that our largest source of American visitors to this province come from states which have wide-open Sunday shopping. When I say wide open, they operate between the hours of noon and 5 pm, and those Americans whom we attempt to lure at great expense to this province come with the vision that those similar opportunities will be available to them as if they had visited one of their bordering states.

We live in a global economy; we live in a North American environment which is transient and in which we try to appeal to a diverse number of people from a diverse number of places. Shopping on Sunday is simply an activity most people expect to be able to engage in when they visit here, and go away very disappointed when they cannot.

Mr Daigeler: I think really what has happened, and you point to that, of course—we have seen the downturn in the economy, we have seen a dramatic decline in the number of American visitors, and I guess your industry realized that this particular legislation could further affect hotels, motels and so on. Perhaps it is more a comment than a question. We, as Liberals, sure would have liked that kind of support about two years ago. Anyway, that is passé, so I do not want to blame you for that.

Mr Zientara: I am not here to engage in party politics.

Mr Daigeler: But I am sure Mrs Cunningham would agree with that.

1420

Mr Carr: One of the concerns that has been voiced is that the tourism exemptions are put in the regulations and

as you may know they are a lot easier to change. In fact, when we discussed it last week with Mr Kormos when we were doing the Police Services Act, it was argued not to have it put into regulations because they can be changed very easily. In fact, that is how the oath to the Queen was changed when this government came in. Under the Police Services Act, it was done through the regulations.

I was wondering, first, if you have concerns about it being in the regulations. Second, you may be aware that people are arguing to get rid of those tourism exemptions because they are so broad you can drive a truck through them. What would happen to your members if, in fact—

Mr Zientara: To answer the second question first, if that were to take place you might as well put up a sign at all the border crossings that say Ontario is not open for business. The tourist exemptions create a lot of confusion in the minds of the buying public. When a visitor to the province comes here, if he finds an area in which retail shopping is permitted because it falls under the criterion of a tourist exemption, he is rather elated, but he is confused because when he goes along to his next destination retail shopping may not be permitted. You cannot try to entice someone into this province and hand them a map as he crosses the border and say: "Okay now, if you intend to shop in this province here are the places you can go to and here are their hours of operation. And if you intend to visit this particular area, remember that you won't be able to do any shopping on Sunday, but if you drive 40 miles down the road you might be able to do so." You either have to have one policy or no policy. Tourist exemptions work in that they allow some degree of shopping to take place, but if I were a visitor to the state of Texas and went for a four-day visit and had to spend time and effort seeking out places where I could go to spend my hard-earned dollars on Sunday, I would probably not do so and I would probably curtail future visits to the state, or to wherever I was going.

You have to make things as easy as possible for visitors to a province or to a country. If you create confusion, and that is what these exemptions do create, then you are almost disinviting them to come back. I think you would agree. I remember the days when most gas stations were closed in the city of Toronto on Sundays and you had to drive around the city for hours to find a gas station to fill up your car to come back to London. That was a tremendous inconvenience to me as a resident of this province. Imagine the inconvenience that is created to somebody who is coming here to visit and does not know where he is or what he is doing, *per se*. Tourist exemptions are wonderful for our industry as a last resort, but the ability to open all retail shopping, if an enterprise so chooses, is far more appealing and welcoming to people who come to our province.

Mrs Cunningham: First of all, I am certainly not surprised with your presentation. In fact, a similar presentation was made three summers ago and four summers ago and five summers ago, but you have always lived with a tourist exemption in this province and this request to have wide-open Sunday shopping has never really been a position of your organization, I do not think, in the past. I think it was to clarify the tourist exemption, to extend it.

But I was curious, because in the travelling I have done out either to a state or a certain part of Europe, one finds what their rules are by virtue of either their laws or their habits. We have heard other witnesses say that the marketplace will take care of itself. I suppose, really, that would be the position you are going for, if you would just like to speak to that a little bit. Maybe anything I have said you would like to respond to. But you usually find out when you are travelling just what the standards of that particular municipality or country are. I always found it interesting when I was in Europe or even England, other than the centre of London and even not very much there, that basically things are closed down.

Mr Zientara: Yes. Unfortunately, in Ontario—I am trying to recall if I am right from memory—about 80% of the visitors to this province come from the States, bordering US states that have wide-open Sunday shopping. That is what our customer or clientele base is accustomed to and that is what they expect when they come to Canada because Canada is a part of the North American economic community. We expect different things when we go to Europe because there are tremendous societal differences between us and the Europeans, as there are tremendous societal differences if you went to Taiwan. We would not expect they conduct their way of life or their businesses as we do here.

If it was a position of our industry five years ago that we only wanted to maintain tourist exemptions and not have wide-open shopping, so be it. But times have changed and a great deal has happened in the last five years; a great deal has happened in the last five days, as we are all aware. So if our position has changed it is because the rest of society has changed and societal expectations have changed as well.

Mrs Cunningham: I suppose that is the challenge of this committee. How much do we want our society to change and do we want to be different? This province has chosen to be different from the American states in the past. It is a quality of life issue for many of us; as we represent the public, what we are trying to do is not easy.

Mr Zientara: But, Mrs Cunningham, perhaps it is not the committee's decision to decide how society will change, but society will dictate that laws are changed to reflect the wishes of the people. That is why I think it is a marvellous thing that the city of Toronto is putting this issue to a referendum because then the people will speak.

Mr Fletcher: I have a couple of questions. One is this statement: Sunday shopping lures people across the border.

Mr Zientara: No, it does not necessarily lure people across the border.

Mr Fletcher: No, I know, but you said that.

Mr Zientara: However, it is another amenity which makes Ontario more attractive as a destination vis-à-vis other potential visitation sites.

Mr Fletcher: When I am a tourist, when I travel around the province, are you telling me I go to Collingwood because I can shop at Canadian Tire on a Sunday?

Mr Zientara: No. What we are saying is that 41% of all tourists, whether Ontarians visiting other locations in

Ontario or people visiting this province, engage in shopping activities.

Mr Fletcher: Once they get to their destination.

Mr Zientara: That is correct.

Mr Fletcher: Right, so really it is not the Canadian Tire store that is open that gets them there.

Mr Zientara: No.

Mr Fletcher: It is the beauty of the country.

Mr Zientara: However, given the option today and the perplexing problem of cross-border shopping, a few months ago when we saw our retail sector close down in this province, we saw cross-border visitations from Ontario to the United States jump by 41%.

Mr Fletcher: Also in 1990, when we had wide-open shopping, we saw it jump 22%.

Mr Zientara: That is correct, but once we closed the door on Sunday it went from 22% to 41%.

Mr Fletcher: What I was told this morning by the mayor of Sarnia-Clearwater is that 10% to 15% of business that goes to the US is what we will reclaim.

Mr Zientara: By opening?

Mr Fletcher: With Sunday opening, 10% to 15%.

Mr Zientara: That is a very positive note for the people who employ people in this province and who are employed in this province and pay taxes.

Mr O'Connor: I want to thank you for your presentation today, and I am delighted to hear your support for our Minister of Tourism and Recreation, Peter North.

One thing that has been pointed out to us through different presentations is the need to tighten up some of the tourist criteria, so we are here trying to get a little bit of feedback to see how we could possibly do some of that. One thing that was pointed out to us when we were in Windsor was that they were within a comfortable day's drive of 50 million people, American citizens. Would you think those possible tourists, which is a tremendous draw and could be a boon for the Ontario economy, would leave their own communities that are full of K marts and Sears stores? Do they come up here to go to our Sears and K mart stores, or do you think perhaps they go to those unique little boutiques? Maybe we should be developing a tighter tourist criteria to attract those people or to allow more chain stores to be open to attract them to come and shop.

Mr Zientara: It has been about a decade since anybody in the United States took advantage of what was then a positive exchange rate of 35% to come to Ontario to shop. Since the diminishing difference between the value of our dollars and the increase in retail prices, the Americans are no longer lured to Ontario to shop. However, when we attempt to attract families or individuals to Ontario to spend a stay of three days or more, one of the activities they expect to be able to engage in, because most leisure travel takes place on the weekends, is shopping. Whether it be a craft boutique or something which is indigenous to a particular area or whether it be a K mart is insignificant in the realm of things.

Mr O'Connor: Given, then, that we do get maybe a way of attracting these people up, and within that three days they would have two days to shop if Sunday was one of those days, do they come up to see our unique Ontario culture or should we try to Americanize our culture a little bit more and maybe look a little more like them so that when they come up here they are not going to feel like they are going into something different, or should we try to enhance the real, true tourist aspects of Ontario? If so, how can we really do that, a true tourist aspect? How can we prove that?

Mr Zientara: That is kind of like trying to say that people are drawn to Scotland because they like to eat haggis. You might eat haggis on one occasion while you are visiting Scotland for a week, but you might not necessarily eat it again. We do not attempt to lure visitors to this province for the sole purpose of shopping. However, we should make it as convenient for them as possible when they are here to experience the quality of life that they enjoy when they are back home.

I am not trying to promote American values over Canadian values, but what I am saying is that when you are selling a product to an individual, whatever that product might be, you try and make it as attractive to them as possible before you can sell it to them. Part of making the Ontario travel product more appealing to our potential visitors is having consistency in shopping policies which permit them to enjoy those things or activities as easily as they would if they were at home.

The Chair: Thank you very much, Mr Zientara, for a very interesting presentation.

1430

JACK BRONSON

The Chair: We have a small change in our agenda. While the brief from the St Thomas/Elgin Tourist Association is being collated, Mr Jack Bronson of B&R Textiles will be presenting and then we will have the presentation from the St Thomas/Elgin Tourist Association.

Mr Bronson, we have about a quarter of an hour. As you can see, there will probably be many questions from the committee members, so please allow us some time for that.

Mr Bronson: B&R Textiles has been in existence for just under seven years. We are a retailer of all types of fabrics. The company is owned by a partnership and we purchased an existing business that had been operating for about 24 years. We are a 15,000-square-foot store, but the employees range from 14 to 6; we are currently employing six. It is a first business venture for both partners, but both of us had been in industry as professional managers for many years in a variety of businesses. Previous to this, I was president of a public corporation employing 800 people, so this has been a new experience for me.

My brief, by its nature, will appear to be acting as the devil's advocate in many respects, but I am very serious about what I am saying. The first part of my brief is the question, why should tourism be considered a special case? Basically I am concerned about the current environment in which the country is in disarray. Maybe one of the

contributing factors is that in different parts of the country you can be doing something that is legal in one part and illegal in another part, the same thing. It would seem to me it would be advantageous for government of each province to get together to standardize the approach to Sunday shopping. Let everybody in the country be treated the same.

Second, why should it be illegal to open your store in one part of Ontario on Sunday and in another part it is legal because of the so-called tourism classification? I am not going to read my brief word for word, but basically what I am saying is that the tourism aspect is really, truly aimed to get American dollars, which means that what we are saying is, a Canadian can be a second-class citizen in Ontario because he is not allowed to shop in some parts of Ontario, but an American can be a first-class citizen because that is what we want him to do, to shop. I do not think that is reasonable. I think that we all ought to be treated the same. Whatever rights and privileges we give to tourists, let Canadians have the same rights and privileges.

Second, why should a storekeeper who is not in a tourist area and is well off the tourist track be considered a second-class citizen? If he cannot earn dollars, we say, "To hell with you, you can't open on Sunday." That is wrong too. I feel very strongly about that.

I move on to the common pause day. I would think that if there is a need for a common pause day it should be based upon an overwhelming public outcry and demand for it. This has never been demonstrated to the Ontario public. Nobody has ever said, "We want a common pause day." In fact, quite the reverse. There is so much confusion about Sunday closing that each day in my store I get people who ask me, "Are you open on Sundays?" and I am astonished. Can they not read the paper? But then if you read the *Toronto Star* and look at the ads in the *Toronto Star*, you will see stores that advertise every week that they are open on Sundays—ordinary stores, not in tourist areas. I will give you chapter and verse if you wish.

Nobody is administering the law in this regard. Either we are open on Sundays or we are closed on Sundays, and if we are closed, everybody should be closed. Even if there is public demand for a common pause day, who decided that it should be Sunday? Let the public pick the day. In Europe, for instance, Wednesday afternoon is a closing day in many parts of England. In other European countries they have a common pause, if you like. Let the public decide what they want to do in terms of a common pause, because even if you do not wish it to be so, the selection of Sunday is discriminatory on religious grounds. There are many more religions now than there used to be and the Sunday closing is pro the narrow spectrum of Protestant religions that do not believe there should be Sunday shopping. That is not right in this current pluralistic society that we have in Ontario.

One of the reasons that is given is that workers need protection about being forced to work on Sunday, and believe me, I am very much aware of that and I sympathize with that approach, because there are subtle forms of coercion in large corporations. You can say to your boss, "I don't want to work on Sunday," and he says, "Okay, it's the law," and then you get passed over for a promotion.

But you are reacting to union pressure who represent those retail establishments that have unions—chain stores, department stores and supermarkets—but they are not the majority of workers in the retail industry in Ontario, not by any means.

One thing that would certainly help your cause for protecting workers is to pay double time on Sunday, irrespective of any other hours worked. You will find that most of the corporations could not absorb that extra cost. In my establishment, when we were opening on Sundays I said: "I don't want to work on Sundays. Six days a week is enough for me. Any volunteers? No discrimination. Everybody gets paid double pay, and the person who runs it all gets a commission as well." We had people fighting to work on Sundays because they could earn from \$100 to \$150 for that day when they normally earned \$50. That is the way to get voluntary work, not hidden coercion and not legislation.

I think you have to recognize that not all establishments are Eaton's, Simpsons and the Bay and people like that. There are many small businesses in Ontario that employ a few people, that create employment for people who need it: students who cannot work in the week but would like to work on Sunday to earn some extra money and housewives who want to pick up some pin money and who enjoy getting away from their husband and children on that day. They are volunteers. There is no coercion and they want to work. You are ignoring that large group of society.

Then I want to talk about exceptions. We have talked about exceptions in other respects. Who says that a mini-mart should be allowed to open on Sunday, or a gas station? Why are they considered exceptions? Because they are convenience stores? If somebody wants to buy in my store on a Sunday and I open it for him, I become a convenience store for that person. If you are going to close on Sunday, close everybody. Do not have any exceptions.

There are flea markets operating in Ontario, say one like at Pickering, where there is no second-hand merchandise in there. It is 100% new merchandise. Those are people who are operating normal businesses but they only have to open the establishment on Sunday for five or six hours. This is discriminating against traditional retail business owners and it is not fair. Let's be consistent. Close everybody down. Let a drug store stay open for emergency prescriptions and let's all learn to live with Sunday closing if we are going to have it. No exceptions at all.

The previous speaker mentioned the fact that at one time it was very difficult to buy gas on Sunday, but there were not very many abandoned vehicles in Toronto. Everybody learned to find out which gas station was open, there was a kind of rotation, and we survived.

So I am suggesting, cut out the discrimination, cut out the number of second-class citizens you are creating. This is a government that is supposed to be bringing equality to Ontario. You are creating the exact opposite, and if you continue to do that you will not have a province, you will not have an economy. We need to have freedom, which is what there was a major revolution this week about; because the way you are imposing rules and regulations on us, it bears great similarity to the fascist and communist states' approach to imposing rules and regulations.

1440

Mr Poirier: Thank you, sir, for your presentation. I think parliamentarians also enjoy being devil's advocates. Maybe we are devils, period, but then that is another story.

You brought up a point that would make it very difficult to see in reality: "Let the people decide what is a common pause day."

Mr Bronson: Obviously I said that because they would not decide on one.

Mr Poirier: That is right, because what is common? How do you make it common? To whom do you make it common? Which day do you make it common? The whole principle becomes impossible.

Mr Bronson: The very point I am making.

Mr Poirier: Exactly. So you are actually saying that in a reverse way. We were trying to listen to different positions today and for the last few weeks; it is impossible to come up to consensus, never mind unanimity on the principle.

Mr Bronson: I would like somebody to tell the public who invented the common pause day, the term, the concept. We do not know about that. It just appeared.

Mrs Cunningham: The common pause day when I grew up in Toronto was Sunday, and I never referred to it or ever heard of the common pause day until I got involved in politics. But basically the rule was that most institutions were closed on Sundays. I suppose what we are involved in here is a change in that premise, and as I tried to say to someone else—

Mr Bronson: When you grew up there was not consistency either. There were many small stores open. Nowadays with people having a greater understanding and desire for equality and fairness and justice, those exceptions are no longer valid.

Mrs Cunningham: I very much appreciate your coming here today. Mr Metz and I often have ongoing conversations, sometimes on a stage, which is not the most comfortable place. But this is all part of the democratic process, and I would say that because of the kinds of things that you are saying and what we are hearing, there will be changes in this existing law and that is why you are here.

But I am just saying, we have caught ourselves up in an evolution of what is happening in Ontario. When I was a young girl, I was allowed to work on Friday nights for the first time when the stores opened on Friday nights, in Eaton's in Toronto, as a schoolgirl, and I was happy about that. But I think we have a terrific responsibility when probably half of the population in Ontario right now feels very strongly about not having to work on Sundays.

What you are saying I really appreciate, but you have to understand where we are coming from. It is a great responsibility to take away either a tradition or a belief or however anybody wants to paint it. It is not simple, and I think all of us are trying to listen in a non-partisan way, although we have our fun back and forth up here. In our breaks we will talk very seriously about what all of you are saying because there is a significant change in the presentations in the last three years. I have to say that.

Mr Bronson: You said probably half the people in Ontario are opposed to Sunday shopping. I would like to see some more substantial statement than "probably."

Mrs Cunningham: Perhaps what we could do is send copies of the different referenda and the different work that has been presented to our committee to you and we can show you how that has been proven over the years. In fact, it is even more than that actually, but it varies from place to place in Ontario. There has been very substantial work done in the last four or five years to prove my "probably" statement, but it has fluctuated more recently.

Mr O'Connor: Thank you for coming. As Mrs Cunningham has been saying, we do have an onerous task before us. As for the people having a choice in deciding whether they should support a common pause day, last September 6 there was an election, a provincial election, and a choice was made.

Mr Bronson: You did not ask that question at the election.

Mr O'Connor: Excuse me.

Mr Bronson: I refuse to hear that from you.

The Chair: Please go on, Mr O'Connor.

Mr O'Connor: Thank you. I have heard your words and I will just share mine. In the course of the summer election, yes, it was an issue and it was talked about. When people did choose New Democrats, that was one of the things that was part of that choice as well.

We do have a very difficult chore ahead of us, and it is something that has been ongoing for some time. It has been pointed out that tourism is important to the economy of Ontario, so we have to recognize that and see how we can work together with different interest groups in trying to develop that and protect the interest of the worker. When it comes to the choice, we have been given that mandate, that responsibility, and it is a true burden but it is something we have accepted and something we are going to have to work on.

So I thank you for your presentation. All the presentations that have come do present a very wide range of views. Yours has presented us with a different one and I appreciate that.

1450

MOTELS ONTARIO

ST THOMAS/ELGIN TOURISM ASSOCIATION

The Chair: We now have a presentation from the St Thomas/Elgin Tourism Association, Mr Ted Henderson. The written brief has been circulated, I believe. Mr Henderson, we have about half an hour. Please use that time as you wish. I note your presentation would take perhaps a little less than half of that time. The committee members, I am sure, have many questions for you. Please proceed when you are comfortable, sir.

Mr Henderson: Thank you very much, sir. I have written my presentation out in longhand so that perhaps as I read through it you could take notes and you will then be able to ask whatever questions you like. Dianne tells me

that my writing is quite legible, so you have another handwritten copy because we cannot afford secretaries.

Good afternoon, ladies and gentlemen. Thank you for the opportunity of making a presentation to your committee concerning Bill 115. I am speaking to you today on behalf of two different organizations: (1) Motels Ontario, which currently represents 64% of all motels, motor inns and motor hotels in Ontario; and (2) St Thomas/Elgin Tourism Association, which currently numbers approximately 100 retail food and accommodation operations. For Motels Ontario I speak as a volunteer director and for St Thomas/Elgin Tourism Association I speak as a volunteer president. Both positions pay exactly the same, so there is no conflict.

I am sure many submissions have been made to you showing the value of tourism in Ontario and I do not propose to dwell too much on that area. In terms of revenue, direct expenditures equalled \$15.5 billion in the year 1990, the province's third-largest industry; in terms of employment, 160,000 people were employed in 1989, the province's largest private sector employer. I believe there is probably a general agreement as to tourism's importance to Ontario and Ontarians around the table and indeed in this room.

Ladies and gentlemen, next I believe we need to define tourism. I have struggled personally for many hours trying to come up with a comprehensive statement which defines tourism. The best I have ever seen to date is one used by Tourism Ontario. It states: "Tourism is the direct supply of goods and services to facilitate business, pleasure and leisure activities away from the home environment. It covers a broad range of products and services including transportation, accommodation, food and beverage services, live and participatory entertainment, conventions, meetings, symposia, amusement activities and retail shopping."

To address retail shopping specifically, retail shopping consists of one of the three top tourist-related activities. In 1988, \$2.2 billion of all our tourism expenditures were on retail shopping. The majority of all tourist-related activities, including shopping, take place on weekends.

Next I would like to show the makeup of the tourists who indeed frequent Ontario. The information directly from the Ministry of Tourism and Recreation tells us that our tourist population comes 75% from Ontario, 12% from the United States, 7% from other countries and 5% from other provinces; 75.3% of all tourists are in fact Ontarians spending money in Ontario.

I am sure everyone here today is fully aware of the exodus that occurs each weekend at our local border crossings. To quantify this I have put some numbers down for you that come directly from Statistics Canada and that cover the period January, February, March, April and May for the years 1990 and 1991. If you flip through them briefly, the first column, same-day shopping, has increased by 23.7% over that time period. One-night stays have increased by 10.9%. Two-night stays have increased by 27.4%. Then I go into the absolute number of days shopping and the nights spent away. That is the first five months of this year.

If we annualize those numbers just in a simple straight-line method, it comes to the fact that Ontarians spent

16,134,867 days shopping in the United States, an increase of 24.2% versus 1990. I think the numbers are so big that we lose perspective on them. We hang handy handles on them like "24% increase;" 24 is not very big.

What I have tried to do next is show you the dollar impact of exactly what that 24% comes to. Tourism Ontario estimates that the average tourist spends \$100 per day to cover food, fuel and retail shopping, retail purchases. If we apply that \$100 to the nine million shopping days, we finish up with \$900 million. That, gentlemen and ladies, is only the increase. That is not the total; that is merely the increase we have seen reflected this year.

Over on page 4, I take the same basic logic and use the same numbers and apply it to hotel nights. Here the increase is 25.6%. I have used a figure of \$50 as an average room and I have used two people going into each room, which totals an additional \$61,824,100. If I add those two together, the projection is that this year Ontarians will increase US spending by \$962 million, a very big number.

Finally, we come to the crux of this presentation. Why is that? Why are Ontarians deciding to spend in the US at an increased rate, equal to almost \$1 billion, in 1991? Why is our prime market—remember, 75% of all tourism in Ontario is in fact Ontarians—leaving us at such a rate? We have one of the most beautiful countries in the world. Our streets are safe to walk. Our accessible wilderness is second to none. All this is peopled by nice, friendly people. Even our water is drinkable. I stuck in the last two, ladies and gentlemen, primarily because that is a comment I receive from so many visitors. I personally get to speak to approximately 200 to 300 a week, and the comment that keeps coming back is, "Everyone is so nice and friendly." Occasionally we also get, "You can drink the water."

The answer I believe, is very simple. We are being taxed and legislated to death. As I drove into this meeting today I noticed that Second City has a new show on. It is called Born Free, Taxed to Death. I would strongly recommend that you spend the night and go there. It is a wonderful show.

Bill 115 is just one more straw being piled on the back of Ontario business. It attempts to exempt the tourist industry from its Sunday shopping ban and employment standards. However, I believe one of its more serious failings is in the fact that it does not define "tourism" or "tourist." I would ask how can we be expected to comment on a bill that lacks the definition of those to whom it is addressed?

The final question I would like to pose for all of you is, how can I operate a successful business in a high-customer-contact area with employees who were dragged to work against their will? I do not believe it is possible.

Thank you very much for your time, your attention and, I hope, serious consideration of some of the points I have raised.

The Acting Chair (Mr Kormos): Thank you. Committee members want to discuss your presentation with you.

Mr Daigeler: Could you explain that last comment a little bit? I do not quite understand what you mean by that, you cannot serve your customers if you have to drag in

employees against their will. What do you mean by that? What is behind this?

Mr Henderson: That came directly from a news release I was given. Unfortunately, I do not have a note on where it came from. It says that amendments to the Employment Standards Act will allow retail workers to refuse Sunday or holiday work. I take it this came apparently from Mr Farnan. Through choosing to put the words "refuse Sunday work" in there, I take it as a very confrontational statement. It assumes that a confrontation has gone in advance of it. What I am saying with my little bit of a flip remark, I guess, is for 25 years in business I have been a firm believer in the strongest asset I have, the goodwill of my employees. If I am forcing them to work against their will, whether it be Friday night, Saturday, Sunday, Monday, Tuesday or Wednesday, I do not think I have their goodwill and therefore I cannot operate a strong, viable business.

Mr Daigeler: So at least up to now and subject to the clarification which I think we are going to get soon by the parliamentary assistant, the government has been very proud of saying this legislation gives the absolute right of refusal to work on Sunday. I guess you do support the concept of people not having to work on Sunday, that they should have the freedom to come to other arrangements, but what you are saying is, in consultation and agreement with the employers. Is that what you are saying?

Mr Henderson: Absolutely, yes. We always strive to accommodate the employees because that makes better employees, happier employees and a happier business, and a more successful business. People quite willingly volunteer to work night shifts or weekends or whatever because it suits their individual lifestyles. For an employer to hire someone who claims he would like to work these shifts, so the person is hired, and then the person has a right to turn around the following day and say: "Now I've changed my mind. I don't want to work Sundays. In fact, I will not work Sundays"—

Mr Daigeler: If I could ask you one other question—I think you are the only presenter from the St Thomas-Elgin area—is your viewpoint shared by other business people in the St Thomas area? How do the retailers feel about that question in your area?

Mr Henderson: I believe I am the only physical presenter. I do know you have received letters as a committee from individual businesses in St Thomas expressing much the same viewpoint. We want the right to be able to operate our businesses with our staff in an amenable way without these threats of legislation ruling us out. Just before I came I read a letter from one individual retailer in St Thomas—it was a letter to you people; you will have it in your committee file—and currently he does not operate on Sundays, but he resents very much your taking away his right to operate on Sunday.

1500

Mr Daigeler: Would you say there is a change in opinion or is this a view that has been there for a while?

Mr Henderson: I think it has been there ever since Bill 115 surfaced. I do not quite know if that answers your question.

Mr Daigeler: When I see my colleague in front of me I am always reminded of how she arrived at Queen's Park. I find it a little curious that there was so much opposition in this area to the Liberal plans and now people are arguing for what we actually brought in, but I should not make that partisan comment, I guess.

Mr Henderson: I think you should.

The Acting Chair: We will all try to presume that you did not.

Mrs Cunningham: I did not realize I would get so much attention today.

Mr Poirier: This is London.

Mrs Cunningham: I think what we are hearing, certainly this afternoon, is a trend I certainly witnessed in the last election, that people who were opposed to Sunday shopping were very much opposed, and people who wanted to shop on Sundays did not feel as strongly about it either way, but I think there were more of them in the last two or three years. Would you agree with me on that one?

Mr Henderson: I would say the numbers I quoted on people who are going across the border refute exactly what you are saying. Ontario is going over the border by droves every weekend.

Mrs Cunningham: I think I asked you whether you agreed with me that there were more people who want Sunday shopping.

Mr Henderson: Okay, yes.

Mrs Cunningham: So you were not refuting me; you were agreeing.

Mr Henderson: Yes. I think the numbers agree with what you are saying.

Mrs Cunningham: Just because of your numbers. The people who have come to this committee representing border communities have asked us very much to delineate and separate the issue of Sunday shopping and cross-border shopping and you do not do that in your brief, and I am wondering whether you are aware of the submissions, or whether you have been able to see the submissions on behalf of the border town mayors.

Mr Henderson: No, I have not and no, I am not. I have seen three different submissions from Motels Ontario and I have seen the submission from Tourism Ontario.

Mrs Cunningham: We will get it to you. I had not seen it presented this morning either, although I was aware of it. Living in London, I have been watching very carefully what Windsor and Sarnia have been doing, so perhaps we will take it upon ourselves to make certain you get that. Do we have your address? If you can leave your address we will make sure we get it to you.

The other point that I find curious is a very strong change in position on behalf of Tourism Ontario. During the last public hearings in the summer of 1989 we had relied greatly on Tourism Ontario, which was very much in favour of assisting the Liberal government with a definition

of tourism so that we could broaden—I say that collectively because I look at myself as just one of 130 people who represent voters or constituents in Ontario, and I would say that Tourism Ontario realized the situation of the time and wanted to work with the government on its definition. I see that it is here in your brief, and certainly we have read it before. But I think the reality with this government is exactly the same, that it will be looking for the definition or a broad definition of tourism. I am just wondering whether you really think that this government, given its stand during the election campaign, would go for wide-open Sunday shopping. I am wondering why you did not take a position more to work with them in specific clause changes. Many people have come before the committee with specific changes to the legislation, Bill 115.

Mr Henderson: I must say that Motels Ontario and the St Thomas/Elgin Tourism Association are far more interested in working with government than trying to be against government, because being against it proves nothing. Our local MPP is the Minister of Tourism and Recreation and I speak with him reasonably frequently. My serious concern and greatest fear are that this legislation will go through without a definition of tourism and tourists attached to it and part of it.

Mrs Cunningham: I think you should be very concerned if that happens. You are absolutely right in mentioning your own member, but most of us are not sitting on this committee—and I think I can speak for all of us—without a view to making significant changes based on what we hear from the public. Certainly that is my view and I wanted that definition in the last legislation. I was not successful, but I will do our part to get it in this time.

Mr O'Connor: I just want to agree with you on a couple of points you touched on to some extent. You mentioned the fact that just as Ms Cunningham had the lack of that tourism definition and you provided us with something we can work with, gathering information is part of this committee process, something for us to work with so we can build up something that is workable and come up with a consensus. I think that is what the whole committee process is about.

We agree with you that taxes are high, but we also have to recognize where some of our tax dollars are going. I was talking to a young American citizen around the same age as myself, with two young children. Their health care costs them \$100 a week, \$5,000 a year, and he was making \$7 an hour. We do have a lot different standards and we have something to show for it which makes us unique.

Mr Henderson: Could I comment on the sense of that, Mr O'Connor? Then you can go on to your next point. In my last position I was responsible for organizing a worldwide service network for Atomic Energy of Canada Ltd. As such, I finished up hiring 197 United States nationals in the United States. Because Atomic Energy was a crown corporation, I was required to provide our employees in the United States with a health care system comparable to what we experience in Canada. The total cost for that package was 14.6% of the gross salary. In Canada the

business cost we showed came up closer to 29%, so I am afraid I do not buy the fact that—

Mr O'Connor: All I know is talking to that young person of 34 years of age making \$7 an hour and paying \$100 a week.

The mayor of North Bay agrees with you that Canada is a wonderful, beautiful country. When we were up there he stated that he wants the tourism to come up and experience just how beautiful northern Ontario really is and have true tourism, walk those trails and cross-country ski and fish in Lake Nipissing and ice fish in the wintertime. In trying to come up with tourism criteria and stuff, are the chain stores a unique part of the Canadian culture we want to try to show everybody, that we are the very same right across North America and that we have the same chain stores, so that when you go back to Cincinnati you can remember, “Yes, I was in northern Ontario and I went to K mart and I ate at the Red Grill”—I am not sure whether that is the name of the little snack bar there—or do you think perhaps that tourists would like to go back with a truly unique thing about Canada and say that they ice fished for the first time in their lives? Would that be more in the tourism line of thinking? Is shopping the main focus or do you think we should try to bring them up there to experience something that is really special about Canada? I would just like your thoughts on that.

Mr Henderson: I heard you ask a similar question two ago so I am fairly well prepared. Tourism is what tourism is. You are implying a definition that says tourism is an annual vacation where one goes and does something totally unique, and we can certainly fill that bill in northern Ontario. Today's society takes many breaks and weekend getaways. Today's society has more money and more free time than ever before in the history of humanity. They spend that in whatever way they choose. I know many ladies particularly for whom the highlight of their trip is to go downtown to the Eaton Centre in Toronto, and you could not pay me to go to Toronto. Other people love it.

1510

Mr O'Connor: We do it regularly.

Mr Henderson: I guess what I am trying to put into a nutshell is that tourists come in all shapes and sizes with all amounts of money, time variables and requirement variables. You talk about the wilderness and fishing. How many people know that within five miles of downtown Toronto is the best salmon fishing in the world? It is true, but how many people know it?

Mr O'Connor: Should we be selling that, then, or should be selling the chain stores? That is what I am trying to get at. What are we really trying to sell when we sell Canada to our tourists and ourselves?

Mr Henderson: What we sell is a total experience that suits the requirements of each individual. The fact of the matter is that fully one third of the tourists in Canada in 1988 expressed shopping as being a major attraction. If that is shopping at Eaton's or K mart or whatever, I do not know.

Mr O'Connor: I thank you for your input so far. If I could just get a little more from you, because I think you

are giving us some very good information—in your opinion, in an area of seasonal residents, cottage country, would you consider those people tourists or are they residents? I am really trying to put the whole thing together. It is something we have to work on. Perhaps a hardware store would have to be open for that person, but is that person a resident or a tourist?

Mr Henderson: It goes both ways. In some functions I would say tourist and in some functions I would say semi-permanent resident. I do not think tourism is a state you have to be in for X hours in order to qualify as a tourist. Perhaps you are up in cottage country but you decide to take the family on down to Canada's Wonderland. That is a tourism activity but you are living in the cottage. It is very complex.

Mr Lessard: I was just wondering why you think it is so important to have a definition of "tourism" and "tourist" in the legislation.

Mr Henderson: I think it is important because we are putting together legislation that is going to seriously affect tourism activity. If some backroom committee is going to decide to whom that applies, I think that is very wrong. The way to make it very clear to whom these conditions apply is to put it right out on the front. I think setting it up through local chambers of commerce and local councils to administer this has given them a burdensome headache that is totally unnecessary.

The Acting Chair: Mr Henderson, thank you very much. We all appreciate your taking the time to come and speak your piece. I tell you it is all to a good end. I appreciate it. Take care, sir.

A question was put by a member of the committee, and the parliamentary assistant to the Solicitor General will now have an opportunity to put the question and the response on the record. We will then proceed to hear from the next presenter, one Marc Emery on behalf of City Lights. Perhaps Marc Emery and anybody with him could come and seat themselves and get themselves ready.

Mr Mills: A question was posed this morning by Mr Daigeler, and I am pleased to report we have a written answer from the Ministry of Labour which will now be filed with the clerk for distribution.

Mr Daigeler: Could you indicate roughly what it is?

Mr Mills: It is self-explanatory. I will leave you to read it.

Mr Daigeler: You do not want to put it on the record, do you?

Mr Mills: I can read it if you so desire.

Mr Daigeler: I will read it and if I have any questions I will come back to it.

MARC EMERY

The Chair: Mr Emery, you have about a quarter of an hour. Please proceed.

Mr Emery: As you can see, I have this neat little T-shirt I made up. It reads "I'm a criminal browser at City Lights bookshop." Actually, this commemorates those fine

days in our legal history when I was opening on Sunday repeatedly and this was against the law.

This particular one was an example where we did not even sell anything that day. As a rule, we would open every Sunday and break a different aspect of the law to show how absurd it was, and on this day we opened up and gave \$10 worth of books to everybody who came by. So we gave \$2,000 worth of books free, on the day before Christmas I might add, and got charged for opening on Sunday. I found out in Ontario you cannot even give away books free on the day before Christmas—not alone among many absurd laws. I remember I went to jail too because I refused—

Mr Kormos: You got scrooged, Mr Emery.

Mr Emery: I remember I got convicted a number of times on this and I would not pay the fine so I went to jail. I remember one time I went to jail because, although by then we were legally allowed to open on Sundays—an amendment was made to allow small bookshops to open—I became a criminal when I became the fourth person to enter my own premises. I had three employees on that day and I entered and became the fourth person, which is also illegal to do even though I was legally sanctioned to open. I remember I refused to pay that fine because, although the crown may have found me guilty, I have never since felt guilty about such things. I did not pay the fine and I went to jail.

Jail is a hardening thing when you are sent to a maximum security provincial prison—

Mr Poirier: Maximum security?

Mr Emery: That is what it is. It is maximum security. If you go to Elgin-Middlesex Detention Centre, they let you outside once every two days for 20 minutes and there is barbed wire around everything and armed guards with you every step of the way. I do not believe I was ever alone in the time I was there. It is interesting too when you spend several days in pure concrete surround by people who have glassy eyes and tattoos and a very dubious outlook on life, and all for opening my business on Sundays and being the fourth person there, among many other times we broke the law too.

It occurs to me you guys have a lot of nerve coming here and telling me what I can do with my own business considering all the things I do for you. I do not think you guys have ever done anything for me. But here are some of the things I do for you. I collect the employer health tax. Now, why I do that, I do not know, but you have imposed that upon me—

Mrs Cunningham: Don't look at me, Marc.

Mr Emery: No. You are not that attractive, in any case.

Mr Poirier: Politically speaking.

Mr Emery: Will you shut up? Thank you. If I was entertaining I would charge you money. Now, if you would be quiet and listen, I will tell you some of the things that I do for you.

I collect your employer health tax, arbitrarily imposed upon me, for whatever reason, I do not know. Why I should be responsible for my employees' health care when I am responsible for their livelihood in the first place is

beyond me. I collect your Canada pension for your so-called working class and I also pay a contribution to their pension. Why, I do not know. I pay their unemployment insurance. I know if I am unemployed I am out on my own, but for some reason I have to pay theirs. I collect their income taxes for you. I collect your provincial sales tax, that 8% everybody has here. I collect the government's GST.

My local council has imposed smoking bylaws now restricting what my own customers can do in my store. I have to have a secondhand licence, which means I have to record all the things—will you shut up, Dianne. I think it is very rude for you to speak during my presentation.

Mr Carr: I asked her a question.

Mr Emery: Well, you can wait.

Interjections

The Chair: Excuse me, Mr Carr and Mr Emery—

Mr Carr: Do not be so abusive.

The Chair: Excuse me, gentlemen.

Mr. Carr: I will not be told what to do by a witness.

Mr Emery: I am not a witness. I am your employer.

Mr. Carr: I will do what I want.

Emery: How come I am not entitled to the same right with my own store?

Mr Carr: I asked her a question. I will ask anybody I want a question.

Mr Emery: Then you will interrupt me and say, "Excuse me, sir, I would like to ask a question."

The Chair: It is my job as Chair to assure that these proceedings go reasonably smoothly. It is also my job to ensure that witnesses are treated with respect, and I would expect that the same be accorded to committee members from witnesses.

Mr Emery: I will give them respect if they will just be quiet and listen to my presentation. It is not a long one. It will not take up much time. I, like everybody else, have waited here. You are paid to listen to the taxpayer, not the reverse, so bear in mind your responsibility and please be quiet.

Mr Poirier: That is a better way to ask it.

Mr Emery: I asked it bluntly but none the less the same way before, and I expect some degree of respect for the taxpayer.

The Chair: Please proceed, Mr Emery.

Mr Emery: I have to obey your secondhand licence, which requires me to record every transaction that transpires in my store. The city council is passing sign bylaws restricting whether I can have overhanging neon signs or sandwich boards in front of my store. I have got adult magazine bylaws that keep magazines five feet off the ground and out of the eyes of—the Attorney General actually recently charged me. The good old NDP Attorney General charged me for selling a music audiotape recently. I was convicted in court. It cost me thousands of dollars.

I pay an extra tax downtown called the improvement tax, which is equivalent to the city taxes, to go to some other nonentities who spend it on good projects that they think are worthwhile, supposedly in my interest too.

After all these things, among many other tribulations I have had to deal with in 16 years in business—I have three shops in this downtown area—it occurs to me you guys have a lot of nerve coming here and telling me whether I can or cannot open my store on Sunday. After all the things I do for this province, whether employing people, collecting all these outrageous taxes, paying them, all the laws I am subject to and regulations and restrictions, I think you guys have an awful lot of nerve even coming to this town and trying to say that you have any right to determine whether I can open my store or not, and I reject that entirely.

I really do not have anything to say other than that I think you people are the problem and that the only real benefit to any of us would be if you were all exterminated. I cannot see any possible benefit in the existence of you people. Every problem you look at in today's society was created by the very people I see before me. So in conclusion, I do not care how they do it, but I hope they take a gun, knife, bomb or bottle to you people and do you in, because until that happens, nothing is really going to change in this province. Thanks a lot.

The Chair: Thank you, Mr Emery. No questions? No questions.

Our next presentation: Do we have any representatives here of the Mogul Group? I believe the presenters from the United Food and Commercial Workers group are here. Is that correct?

Clerk of the Committee: They are still waiting for one party.

The Chair: I appreciate that. It is just that we have a change in schedule. I would suggest that we recess until 3:45.

The committee recessed at 1522.

1550

The Chair: Our next presentation will be from the London Chamber of Commerce. We do have a short discussion in the committee before you start your presentation. Mr Poirier?

Mr Poirier: Thank you, Mr Chair. I think all of us are still reeling from the verbal attack of the last presenter, a Mr Marc Emery from a firm called City Lights.

I have been a member, Mr Chair, for close to seven years, and I have never been on the receiving end, nor on the sending end as a matter of fact, of such verbal violence from a presenter, whether in the House or here on the road with public hearings, where that person made some horrible suggestions as to the elimination and termination of life of the members sitting here, regardless of party. I want to condemn that, especially having chaired the House and the committees. I find that type of violence of language extremely objectionable, and on behalf of at least our Liberal caucus here, I want to put on record that we were appalled by the violence of the words that Mr Emery used against the members of Parliament here, and I strongly condemn that type of language. Obviously, if he had been a member he would have been asked to leave the House because that language would have been deemed unparliamentary and unworthy of a human being, to wish the death of another human being.

So I have been tempted to ask for unanimous consent to withdraw his remarks so that they would not appear in the record, but I think they were so horrible we will let them stay. But they must not be allowed to stay without our condemning such violence, where we are all trying together, all three parties, to eliminate violence and to eliminate this kind of threat against other human beings.

I am still very upset about that, and I hope my colleagues from the other two caucuses will also address that particular situation. Thank you, Mr Chair.

The Chair: Thank you, Mr Poirier. Mr Carr.

Mr Carr: I could not have said it better than you did, Jean. You said it all. Since I have been a member there have been times when we all get upset over things because we, as politicians, believe passionately in the reason we are here, but at the end of the day we can still all shake hands and hopefully get along. So I think you said it best and I would just leave it at that.

The Chair: Thank you, Mr Carr. Mr Kormos.

Mr Kormos: Thank you, Mr Chairman. I should acknowledge that I was reluctant—and indicated to Mr Poirier during the brief recess—to consent to having comments stricken from the record. That is an exercise which I believe should be utilized only in the most extreme circumstances—and I cannot even begin to think of any in which that should be utilized.

I am pleased, then, that our suggestion that we address this briefly is acceptable to all the people here, and I know I speak on behalf of all our caucus when I indicate that was certainly a bizarre and more than even unfortunate outburst on the part of this person identifying himself as Mr Emery. The commentary made by him was shocking, and it has to be said that it put Mrs Cunningham and Mr Carr in a very difficult and unenviable and, as Mr Poirier indicated, unprecedented position. They conducted themselves in a manner which cannot be criticized in response to that barrage. The record should show that, and I say that so this can be clear to those who might read this in the future or down the road.

In any event, it remains that we have to rely on the good faith, the common sense and the goodwill of people who want to engage in discourse in this most democratic of forums. We should treasure that freedom all of us have and the participants who appear before us have and we should do all that has to be done to protect that.

I once again commend Mrs Cunningham and Mr Carr for their restraint in the face of that verbal assault and express our regret this should ever occur within the context of one of these meetings or, quite frankly, in any other situation, public or private. People have to feel free to express their opinions and represent their constituents without ever fearing any threat, however bizarre that threat might be. That is a bottom line; that is an imperative.

LONDON CHAMBER OF COMMERCE

The Chair: Moving on to our presentation, Mr Etherington, Mr Berry and Mr Ansley, we have approximately half an hour for your presentation and for committee members to pose questions to you.

Mr Etherington: My name is Jim Etherington. I am chairman of the London Chamber of Commerce. Mr Frank Berry, who is vice-chairman of the policy area of our chamber, will be doing the actual presentation. Mr Ansley is a merchant in town who has had some experience on Sunday shopping and would be pleased to remark upon that if it pleases the committee.

May I first apologize on behalf of the London business community to the committee for what I understood, although I was not here, of the comments of the previous speaker. We are well aware of his views and have seen them in print and have heard them. He is not a member of our chamber, but I feel that someone should apologize to your committee and I will do that on behalf of the London business community.

The Chair: On behalf of the committee, I would like to thank you for that, sir.

Mr Etherington: Mr Berry will now make our presentation.

Mr Berry: I believe you have copies of our brief. The clerk just distributed it to you. We make in this brief six points which we believe should be considered when the legislation is before you. First and foremost, we strongly believe that government should stay out of this issue of Sunday shopping. The government should not have a role as policeman and protector in the marketplace. The marketplace, we believe, should be allowed to function according to its own rules and according to its own economic circumstances. We believe that if a store owner wishes to open on Sundays, the arrangements he makes with his staff, with his customers, are his to make.

The marketplace is a powerful arbitrator and the most effective controller of business operations, and unless business people are prepared to work within the context of the marketplace they should not, as we said earlier, be protected by artificial legislation and regulations.

The second point we wish to make refers to the so-called common day of pause. We found it rather interesting that the common day of pause is used as a powerful argument against Sunday shopping and the retail industry, yet we hear no mention of it when we are discussing the jobs of bus drivers, taxi drivers or people in the entertainment and service industries. Either we must be consistent, where all of us in the service industries take a common day of pause—we should not single out individual segments of our society for application.

Our third point refers to the tourist exemption. We were quite taken aback—I think as was every other chamber of commerce in Ontario—to read in the proposed draft regulations that for a community to have a tourist exemption, it had to have a letter of approval from the local chamber of commerce. We, as well as every other chamber of commerce, I believe, were not consulted, were not asked for our views on this inclusion and certainly we have no intention of accepting that role.

1600

Quite apart from anything else, the legal implications of withholding or advancing approval in any given situation would be quite horrendous. We, as a chamber of commerce

which is not a regulated body by any act of provincial legislation, simply do not have that type of responsibility.

The right to refuse work on Sunday is, we believe, adequately covered by existing legislation. I would draw to your attention the recent case in London of which you may or may not be aware, when an employee of an industrial company refused work, was dismissed, and successfully appealed. In our view, the rights of individuals to refuse work are adequately protected under existing legislation.

The proposed regulations which would allow, as we understand it, people to first of all agree to work on Sunday and then withdraw that agreement up to 48 hours prior to the working day, in our view is simply an open invitation to abuse and would make it very difficult for employers to properly organize their workforce for Sunday opening.

The issue, of course, which now has changed much of the complexion of this issue from last year, is cross-border shopping. Many of our merchants, even in London but particularly in the border communities, find themselves trying to compete with one hand strapped behind their backs. They simply cannot offer the services that people, a few miles away, just because they happen to be on the other side of the river, can offer. It is not surprising that they are losing much of their business to other communities when they simply are not allowed to compete when they want to compete.

Finally, the cold question: Is in fact Sunday business new business or, as some people have said, is it simply a matter of spreading the business over seven days instead of over six days? We had evidence to indicate last year, when stores were open on Sundays, that in fact new business is being generated. I think we can suggest various places that business is coming from, not the least of which is the alternative, as I said earlier, to cross-border shopping. If we can attract those dollars back into Ontario, then we should be doing that, not handicapping the local merchants.

In conclusion, we are urging this committee to drop any plans to regulate the hours of operation of retail business establishments on Sunday and allow full freedom of choice for business owners, shoppers and workers to avoid an unworkable, bureaucratic, confusing and inequitable law. We have a situation in Ontario right now where we have people, retailers willing and able to open Sundays, willing and able to offer employment to people looking for jobs, yet we are proposing, through this legislation, to deny people that opportunity. That, we think, is bad legislation.

May I ask if Mr Etherington or Mr Ansley have additional comments to make?

Mr Ansley: I am a merchant and I have evidence now, through my computer in the front end of our store measuring data; customer accounts before we were allowed to open a year ago, during the period of time that we were open and the time since then, July and now the month of August, when we have comparative data when we are closed.

All of the evidence leads to the fact that the large majority of our Sunday sales are incremental sales. We did 10% of our business on Sundays. We had steady increases during the period when we were allowed to be open on Sundays. We increased our employment at our store. Since we have been closed and have comparative data against the time when we were open, our sales in fact have

dropped very close to the number of the increase that we had, based on Sundays, and that is what we have lost not being able to open on Sundays.

We have now gone ahead, and I think one of the main issues that this committee is going to have to deal with is the unemployment issue. We would have in our store approximately 20 to 25 people on each Sunday. We hired five additional people and one additional manager. We have now laid off five people on our staff.

There are lots of data and lots of comments from a variety of people. Quoting from the Toronto Globe and Mail, the Grafton Group said it has cost it \$7.6 million in sales and it has lost a number of employees, 100 jobs in Ontario alone because of Sunday shopping, since it has been closed. The president, I think, of the Bay group of companies has said that it has cost it 1,000 jobs and \$100 million in sales by closing. All of these data are important and I think should be considered by this committee.

We have to stop making this issue an emotional and a political issue. This is a business issue. Cross-border shopping is also a significant factor; how much I really do not know. However, the comments from my customers have been clearly that they will go across the border, and whether it represents 1% of cross-border shopping or 10% of cross-border shopping, we should have the opportunity to compete on Sundays.

The Chair: Thank you. We have approximately six minutes per caucus.

Mr Daigeler: Thank you for making your views known to the committee. Are the views you are putting forward today the same as two years ago, three years ago? Has there been a change or has that always been the position that you are putting forward today?

Mr Berry: If I may reply, Mr Chairman, even a year ago the chamber of commerce was quite widely split, and I make no bones about that, with quite a number of our members who were opposed to Sunday shopping, quite a number who were firmly in support of it. I think in the past year we have seen a decided shift towards the majority or the consensus, if you will, of our membership being in favour of open Sunday shopping.

Mr Daigeler: Actually, that is what we are hearing somewhat in other parts of the province as well. There are many chambers, quite frankly, acknowledging quite a significant shift because of the recession, because of the impact of people going to the United States, and I guess the experience of no Sunday shopping regulation. So many chambers do say that they have changed their mind.

This morning your mayor and deputy mayor came and they, speaking on behalf of the city, I think, were taking a different view than you are putting forward. Do you feel that the politicians in London will eventually also change their minds, or are there people still strongly behind the position that the mayor was putting forward and the deputy mayor?

Mr Etherington: If I may speak to that, we are convinced that the city does not really know the position of the majority of its citizens. They are talking about putting a question on the ballot this fall in an effort to gather some

information. I think they are treating it more as a political issue than a business issue, and that is why we differ with them.

Mr Daigeler: I must say I disagree with you to make it just a business issue. I think the lives of workers are at issue here and the unions have certainly forcefully argued that a pause day is needed. I do think there are other considerations than strictly business ones.

One point that comes to my mind is that the municipal option we brought in is being seen now by several chambers and by several municipal councils, including my own in the Ottawa area, as the one that is most respectful of the different views across the province. I guess you would not agree with that? You do feel we just simply drop the whole thing?

Mr Berry: That is right.

1610

Mr Ansley: Can I just make a comment to your question? I think things have changed since we had the opportunity to open. From my understanding, from the various polls that were taken among the population, it was almost a 50-50 split before we were allowed to open, and probably leaning towards people not wanting to have stores open on Sundays. Since we have been open, I think you would find that has changed dramatically. The information I have from a well-known retail consultant is that if the question were asked on a poll, perhaps 67% to 70% of the people across the province would favour merchants having the option to stay open on Sundays. If the question were asked, "Should merchants have the option to stay open?" it would be dramatically higher than 70%.

Mr Poirier: How about London? How would the people in London think?

Mr Ansley: I asked him that very question, as a matter of fact, and he suspects that it would hold true in London.

Mr Poirier: The same percentage?

Mr Ansley: Yes.

Mr Daigeler: What did actually happen when the legislation was struck down? Did most stores open, did most stores stay closed, or what was the situation in the London area?

Mr Ansley: There was the initial thrust of stores that strongly endorsed it and supported it and opened immediately, and others did follow. As time went on, some of the smaller stores, I believe, that were not doing sufficient business to justify being open on Sundays closed.

Mr Daigeler: What about the malls?

Mr Ansley: Stores inside the malls?

Mr Daigeler: Did they stay closed?

Mr Ansley: Some did and some stayed open. I think, if anything, as people became accustomed to shopping on Sundays, sales in fact strengthened over the period of time and more and more people accepted it.

Mr Etherington: That was the experience of one of our large furniture stores in town. He spoke to me about it and said he stayed closed on the first Sunday. On the second Sunday he opened and did about \$40,000 worth of business. On the third Sunday he did \$110,000 worth of business. He said, "Sunday shopping for me."

Mr Ansley: From an employment point of view, I think you have to understand most retail employees are part-time people. In our store, if a person did not want to work, just indicated that he did not want to work, he did not have to work, because many of the people are part-time and students, university students in this particular case in this community, who wanted the hours to help support their education. As a result of Sundays being closed, some of the students we had during the summer, we had to reduce the number of hours they had. I know in one particular case one of the students has to go out and get a student loan now.

Mr Carr: What type of store is it that you run?

Mr Ansley: I have a Canadian Tire store.

Mr Carr: One of the overwhelming concerns of the chambers was the part of the draft legislation where the chamber would have to do a letter of support to the municipal council, and I think that is one of the areas that we may see changed in this piece of legislation. I just wanted to start off with saying that I will be pushing for that and be introducing some amendments along those lines. I suspect the government may do that on its own.

I was interested in following up a little bit along the lines of the last questioner. We have heard a lot of people saying that as a result of some stores being open, there will be pressure for other stores to open to remain competitive. There are others in the chambers who have said, "I want people to have the choice to open, but I personally won't." So short term I think you might not see too much, or it might even be the reverse. Long term, though, do you see it becoming a situation where if one person gets a chance to open there will be those competitive pressures to open up? Maybe you could look down the road a little bit and see.

Mr Berry: Just to follow on with what Mr Ansley has said, I think it was rather interesting to watch the pattern change. Initially, with the novelty of Sunday opening in good old Ontario, as was pointed out, many stores felt pressure to open, to have to do it. As time went on, it became more accepted. Exactly as we say in our brief here, the marketplace took over and the marketplace organized itself and those merchants who felt it was in their interest to stay open did so. Even many of those in the malls who were subject to leases and conditions by mall owners opted to stay closed. The end result, I think, prior to the reimposition of the closing, was a situation where the marketplace had pretty well adjusted itself to the conditions, people had accepted it and we were well on our way to developing a new status quo.

Mr Carr: One of the other concerns of a lot of people is the fact that with the tourism exemptions being so broad, they are going to be able to be interpreted by the municipalities and, as a result, what may happen is that one store might get classified as a tourism area and the other one will not. That other store that does not, or vice versa, will say that it is not fair and then go to the courts, and I think you said it; the lawyers would love a few years to define the criteria. What do you see happening if the law remains the same in terms of a lot of court challenges? What are we going to see in that area, do you think?

Mr Berry: I do not think there is any question in our minds, and we refer to it in the brief, that it would be a confused and very tangled legal situation for many, many years.

I have read the regulations. In a sense, they are broad enough to permit almost anything under the tourist exemption. I could put my kilt on and go sell bagpipes—I am Scottish—and get the ethnic exemption, but is that the intent? I do not think it is. I think it just opens a whole can of worms.

Mr Poirier: But we would like to hear you play.

Mr Berry: I do not think you want to say that.

Mr Ansley: Actually, in the London area there are some bizarre cases. For example, the village of Hyde Park, which is on the outskirts of London, has declared itself a tourist area, so the stores in Hyde Park can stay open when the stores in London, which are a quarter of a mile away, are not allowed to stay open. Things like that will just continue.

Mrs Cunningham: It is always interesting in representing London to try and get a consensus, but in the past we have had one and I am now seeing a divergence from it. The two groups that I would respond to in the work I do are the municipality and the chamber. They basically had the greatest amount of influence as I have represented London North at Queen's Park. So it is an interesting brief.

I am interested in the economics, so I will ask three questions. The first one is, when you say it is an economic issue, I do not think it was just a matter of an employment issue. I do not think it is just a matter of customer accounts, Mr Ansley, so maybe you can respond to that.

The other question is, just to update all of us, the lease thing was a great concern in the last round of discussions. You had to open on Sunday because it was in your lease. If you can update me on that, I would like that.

Then the third one is the reality of what we face here. First of all, I think we probably are looking at a government that has campaigned on this common day of pause, not that my colleagues on this committee seem to think that is very important, but certainly the government—whoever they are—does, and therefore we are probably looking at either this municipal option or perhaps a tourist exemption written in the law that would apply to everybody.

If you could respond to those three issues, the first one is the economics, this customer account, just elaborate on that; the lease, which was mentioned also; and this reality, which is probably either the municipal option staying in place or a province-wide tourist exemption.

Mr Ansley: When I refer to customer accounts in our store, the average sale per customer does not vary from one week to the next or one year to the next, and if it does, it varies as a matter of pennies. Those are the statistics, so by determining customer accounts, I can relate those in terms of dollars. My sales would have increased as a result of being open on Sundays approximately 10% over the previous year. If you understand what happened with the FST and the GST, that also included taking the federal sales tax out. In fact, we reduced our prices in our store by 5.1%. I am not even counting that as a factor. We still had,

year over year, more than a 10% increase on the months that we were allowed to stay open.

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Mrs Cunningham: You reduced prices?

Mr Ansley: Yes. When the FST came out, we reduced our prices by over 5%. After we were closed, and we had comparative analysis—for example, July is when we were allowed to open in 1990 and we were closed in 1991 in July. If you took the number of customers who represented Sunday sales in 1990 and took that out, that was the exact amount that our sales were decreased year over year. It came out to 11%, but close enough to 10%. Those numbers came off our day-to-day sales sheets, right off our cash registers.

Mr Lessard: You mentioned that you felt this should not be a political issue but should be strictly a business issue, and I just wanted to say to you that we are kind of all in this together. In addition to that, it is also a quality of life issue, which is something that we have to consider very seriously.

You are representing the government relations committee from the chamber, I take it, and you are speaking on behalf of the chamber when you say that you have noticed a decided shift and you say that you think things have changed as far as people's perceptions and acceptance of shopping on Sunday are concerned. The mayor and the deputy mayor were here this morning, and they felt that their understanding was that the chamber was more inclined to support a common pause day. He based that on polls that had been done by the chamber over the past couple of years. In making the statements you have made about the changes, have you polled your members with respect to trying to determine whether that is in fact the case?

Mr Etherington: That is a very legitimate question. We did polls of our members on a telephone basis two years ago. The retail committee of the chamber did a poll to find out what people thought. At that time we were probably, as has been remarked, sitting about 50-50. We discussed having more polls this time, and we reviewed the literature available, the newspaper coverage, comments of others, and the discussions of our committees and of our board.

This is very interesting. About three months ago now, I guess, we had a regular board meeting and Frank said, "Let's have a straw vote among our board members here," of the 21 members of the board present. Two members of the board said they would probably not be in favour of Sunday shopping. One owns a 100-year-old jewellery store in downtown London and the other is a vice-president of a firm that owns a very large mall. For differing reasons, they felt that perhaps some kind of rules about Sunday shopping would be acceptable to them.

We came back with our proposal and circulated it to our board meeting of last Friday, and we had unanimous support of the board, and both these gentlemen in particular said, "You know, now that we've thought about it, why are we involving ourselves in all this mess?" The mall guy said, "I guess I was hoping that we'd have some kind of rules that would make it easier for me to run my mall," and

the other guy said, "I never intended to open Sunday anyway, so let the marketplace rule."

This is legitimate from our point of view. I have not fully answered your question. We have not done recent polling, but we are confident that we do represent the majority of our membership's views.

Mr O'Connor: You mentioned on the last page Sunday shopping and new business and there is new money evident. Where did that money come from?

Mr Ansley: That is a very interesting question, and I have been asked that by the newspaper and other people. I think that some of it is incremental sales that came from the fact that we were opened on Sundays, and it was a convenience factor. The pattern of shopping on Sunday is clearly different than it is during the rest of the week. There are no time constraints on people to shop on Sundays. Families come in on Sundays. In the area that I am in, we found people coming in and browsing and doing things like that, so probably there were some incremental sales as a result.

During the times when we were open in our seasonal centre only on Sundays, after the closing took place we had several customers and they said in front of city officials that if they could not shop here, then they would be happy to go—we are an hour and a quarter away from a million-square-foot shopping mall in Port Huron, Michigan. It is kind of a pleasant drive down there. There are many communities in this province that are equally located, Welland, for example. It is kind of a pleasant day. Time constraints are not a matter of priority on Sunday for some people. Some people, believe it or not, enjoy shopping.

Mr O'Connor: So you are saying the cross-border shopping issue was where the new money came from? I am trying to figure out where the new money came from.

Mr Ansley: The new money, they are saying: "We spent money here. If we didn't spend the money here we would have gone across the border to pick up some of these products."

Mr O'Connor: It has been well publicized that we are in a recession. How has that had an impact on the retail business within your chamber?

Mr Ansley: It has obviously had a dramatic effect on retailing right across the board.

Mr O'Connor: Exacerbated by the cross-border shopping issue?

Mr Ansley: My point was that during a recession in the last year, when we were open on Sundays, we had in excess of a 10% increase in sales. Properly translated, it was really a 15% increase in sales during that period. Now that we have comparative numbers against the Sundays of last year, we are actually showing serious decreases in sales.

Mr O'Connor: In the polling you took two years ago, did you do any polling of the employees? As retailers did you do any polling of the employees working in the retail sector for you?

Mr Berry: The members of the chamber represent corporations, companies and individual businesses. We

surveyed those members. We did not survey their employees per se.

Mr O'Connor: The retailers were not asked to survey their employees.

Mr Berry: We were not asked, but I am sure in many cases some of them, the old family businesses, which are many in London, took their employees into account.

Mr Ansley: For example, I had a general meeting of my staff before we opened on Sundays and I posed that question to them, because the ones who did not want to work did not have to work. There were no full-time people to be employed except that one person was promoted to a Sunday manager. The rest were part-time people. They were all voluntary. Every single person was voluntary. If I put an ad in the paper tomorrow for employees to work part-time in retail only on Sundays, I would be inundated with applications.

Mr O'Connor: How many new employees did you hire?

Mr Ansley: We hired five additional employees. It may not seem like many to you, but if you take a look right across the board at all retailing it is significant.

Mr O'Connor: I agree with you.

The Chair: Thank you Mr Ansley, Mr Berry and Mr Etherington. A very interesting presentation.

Mr Etherington: Good luck. I do not want to solve this one.

1630

MOGUAL GROUP OF COMPANIES

The Chair: Mr Kamran Khan from the Mogual Group, you have approximately a quarter of an hour for your presentation and questions.

Mr Khan: Mr Chairman, ladies and gentlemen of the standing committee, my name is Kamran Khan and I am vice-president of the Mogual Group, based in Stoney Creek, Ontario. I would like to thank the clerk's department for allowing the Mogual Group the opportunity to speak today with respect to Bill 115.

The Mogual Group has publicly announced on April 10, 1991, to the city of Niagara Falls its intentions to develop a 227,000-square-foot manufacturers' outlet mall on 18.2 acres of land that we own at the southeast quadrant of the QEW and McLeod Road in Niagara Falls. The Mogual Group has held these lands in its portfolios for the past eight years. This development will be combating against a similar development on the American side of the border and providing Ontario consumers with a similar value-oriented, factory-direct shopping experience on the Canadian side of the border. This development will create 500 to 650 needed jobs for the region of Niagara and provide much-needed quality shopping avenues for the city of Niagara Falls. It will also provide for a partial answer to the cross-border shopping issue. I am sure you have heard a lot of that in the past half-hour.

On June 6, 1991, we approached the region of Niagara requesting an exemption under the existing Retail Business Holidays Act. A public meeting was scheduled for July 18,

and on August 1 the regional Niagara council overwhelmingly passed a bylaw permitting Sunday shopping for our proposed development. We were thrilled but, along with the region, were equally aware of the fact that this bylaw was to be repealed upon royal assent of Bill 115. It is very important for the standing committee to realize why the Mogual Group pursued such a bylaw. That is the reason I am here. I am also going to discuss Bill 115 and what I think the problems of Bill 115 are.

Referring to the proposed amendments to Bill 115 or to the holidays act, proposed subsection 4(1) states, "Despite section 2, the council of a municipality may by bylaw permit retail business establishments in the municipality to be open" on Sundays or "on holidays for the maintenance or development of tourism." The key words that I stress here are "maintenance or development of tourism."

Proposed subsection 4(4) states that "Subject to the regulations made under this section, the council shall consider a bylaw under subsection (1) only on the application of one or more persons carrying on retail business in the municipality or on the application of an association, whether or not incorporated, representing persons carrying on retail business in the municipality." Here again the words are "carrying on retail business."

Under proposed subsection 4(11) it is mentioned that a regulation under proposed clause 4(10)(a) or (d) "may classify retail business establishments and may prescribe different tourism criteria for the different classes of retail business establishments."

You must be wondering why I am talking about this. The bill is unclear with respect to how developers of malls in tourist destinations such as Niagara Falls are able to make applications for exemptions prior to their developments' proceeding. Unfortunately the legislation is silent in so far as developers are concerned. This is illustrated quite clearly in proposed subsection 4(4) with the wording "carrying on retail business."

Currently no provision exists under proposed subsection 4(4) for the Mogual Group to be able to apply for such an exemption after our recently received bylaw is repealed. This situation does not place the Mogual Group or the tenants we have or proposed in any comfort. In fact, it honestly concerns us deeply because Sunday shopping is pivotal to our development. It is pivotal to any factory outlet mall development in North America. We cannot entertain leasing contracts without this concern being dealt with. We are seeking to create a smooth transition between the approval we just recently were granted and the new act to be passed.

I ask the committee to consider the following. In order for the Mogual Group to successfully develop a manufacturers' outlet mall on the Canadian side of the border, maintaining and developing tourism and keeping the dollars in Ontario, we must be able to assure the tenants who are going to be involved in this development that Sunday shopping is in place, and not "can be" in place. This is extremely critical. The Mogual Group has canvassed many manufacturers both in Canada and the United States and received phenomenal interest—it is quite surprising, excellent interest—but this interest is plagued with

the central assumption of Sunday shopping being in place. Sunday shopping is mandatory for outlet developments.

The outlet development industry is extremely prominent in the United States, and anyone who has travelled in the US can appreciate this statement. For those who have not, I would refer them to the Benderson development on Military Road in Niagara Falls, which is currently attracting more than half of the mall's business from southern Ontario. Outlet developing is just beginning in Canada, because the industry and the Ontario consumers are finally poised to such a new concept. They tried to do one up in Bramalea and everybody heard about what happened there, but it has finally begun to go on in Canada.

According to the Value Retail News of St Petersburg, Florida, 98.9% of all factory outlet malls in the US are open on Sundays. Michel Cimon is president of Estridev, a land development company that owns the mall Les Versants de Bromont in Bromont, Quebec. This mall is open on Sundays under a Québec Récréotouristique designation. He stated in an article in the Value Retail News, July 1991, that 30% to 40% of all of Bromont sales are transacted on Sunday. Considering the fact that Niagara Falls is a tourist destination itself, it is not surprising that our demographics and feasibility studies completed by DI Research of Toronto indicate that 40% of first-year sales, estimated at \$93 million, will be from the tourist components, that is, 40% of first-year sales will be from the tourists.

Niagara Falls currently entertains approximately 12 million tourists annually. If Sunday openings are restricted for such a development, it only forces tourists to shop across the border at the American Factory Outlet Mall. As a result, the province of Ontario loses an estimated \$7.44 million in provincial sales tax, New York state gains \$7.44 million in New York state tax and Canada loses out, and leases will not be entertained.

Outlet developments in the US are specifically located in tourist areas, far enough away from major retail bases so as not to disturb them, and thrive on weekends, especially Sundays. Without Sunday shopping, this development and others planned for Ontario—and there are four others planned for Ontario, by the way—will not get off the ground.

Both the region of Niagara and the city of Niagara Falls have acknowledged that our development is a bona fide tourist destination, and I have provided Lisa with a bunch of supporting documents in that regard. They also have recognized that without a Sunday shopping bylaw being approved for this proposed development, the Mogual Group does not stand a chance in leasing this development to the manufacturers when the prospective tenants know full well that the Factory Outlet Mall, located 20 minutes from this site across the border, is open seven days a week. We must be able to compete on a level playing field, and in these circumstances the government of Ontario's assistance is crucial in facilitating these types of developments and succeeding and competing fairly.

We respect the fact that this is a people-working-on-Sunday issue as well. Talking with some of the prospective tenants—at this time I can name Oneida, Benetton, Esprit, Corning and Bali—have indicated to me that they are not concerned with finding labour on Sundays. In this regard,

the Mogual Group supports the tabled amendments to the Employment Standards Act. But you must understand that there is a definite need for employment in the region of Niagara due to the businesses closing down because of the recession and cross-border shopping. I assure you that there is a ready force of workers for our development. We appreciate the reinforcement of family values in the new legislation and we feel the proposed Employment Standards Act provides such protection for workers. The Mogual Group is obviously trying to eliminate, quite honestly, as many grey areas as possible for our tenants. We are trying to provide reasonable assurances to our tenants that Sunday shopping is obtainable, and under the existing act we obtained it.

The amendments to the act were announced on June 3 or 4 by the Ontario government and on June 6 we had our deputation in front of the regional council, so we were caught off guard. Now we must be able to assure the manufacturers that a bylaw can be obtained in the amended act. The wording of proposed subsection 4(4) suggests that we will not be able to obtain such approval until the individual stores are operational and functional. These stores will never be operational with just an assurance of Sunday shopping. They only will be operational with Sunday shopping in place. Actions speak louder than words and that is the exact reason, knowing that the bylaw was to be repealed, we still went ahead with our deputation in front of the region of Niagara, because we had to show these manufacturers that the region understood our concerns.

Bill 115 constantly illustrates the government's position of maintaining and promoting tourism development. Our land is zoned tourist-commercial and has been zoned as such since 1965. Our demographic studies prove that this development will be a tourist destination and the cross-border shopping phenomenon proves that these types of developments can be tourist destinations, not to mention the tour buses parked at the outlet mall across the border. That proves it as well.

If the maintenance and promoting of tourism is truly the government's stand, all the developers of proposed outlet developments in Ontario would be pleased to see provisions for their proposed tourism developments being able to apply for exemptions or, even better, being exempted from the process altogether.

Our development will not be able to obtain financing or leasing interest from manufacturers without Sunday shopping—so it's just key. Therefore, on behalf of the Mogual Group and on behalf of the other developers in Ontario developing factory outlet malls, I ask that the standing committee review these unique circumstances and amend the proposed subsection 4(4) to give tourism developments of this calibre the opportunity, and an opportunity to apply for such exemptions. Thank you very much.

1640

The Chair: Thank you, Mr Khan. We unfortunately have time only for a very brief question from each caucus.

Mr Daigeler: I have a very quick one. Do you have a specific amendment that you feel would look after your concerns? If you do not, it probably would be useful to

formulate it and submit it to the clerk, because this will then end up in the résumé we receive from research.

Mr Khan: I would love to do that. Actually, I do have a suggestion on that.

Mr Carr: Thank you very much for a fine presentation and for pointing out something that sometimes gets forgotten, although I think we had, when we were in Peterborough, a group from Belleville who came through and did an excellent presentation showing their development and the tourism aspect of it, and for the first time highlighted some of the problems. So I appreciate your being able to come forth and shed light like this.

The particular circumstances that you are looking at, you are saying that without the Sunday shopping you will not be able to get tenants in there. That would obviously lead me to believe that the retail groups are saying that they need Sunday shopping. What are they saying to you the reason is? Is it that they feel they will get more sales out of it? Is it to combat the cross-border shopping? What is the big reason that they feel they need the Sunday shopping to make ends meet?

Mr Khan: The comments back from them are very simple, actually. The outlet development on the American side of the border is located 20 minutes from this property. Our mall is going to be open six days a week, and all those tourists who come on Sundays and find it closed will just simply hop across the border and go on to the American side.

But that is not the pivotal reason. The pivotal reason is the fact that the outlet industry itself, which started some 10, 15 years ago in the United States, has always been open on Sundays. These things always open on Sundays. That is why they were always located by tourist areas, because they always attracted the tourist traffic. Taking Niagara Falls into consideration, which has such a large amount of people coming through it—tourists coming year-round really, with a lot of Japanese tourists now coming in the wintertime—it is not surprising for them to ask for such a bylaw to be allowed on the property.

It was accepted by the region that the land was zoned tourist-commercial, and it has been zoned tourist-commercial since 1965. I feel it should be granted on that basis. It is the largest piece of tourist-commercially zoned land in the region of Niagara. So they have always looked at our property as somewhat like, "What are these guys going to do with it?" When we announced our project back in 1990—I will be honest with you—we had a hell of a time, because then it was like going to a manufacturer and saying, "Come on in." It was like: "What are you, crazy? The thing across the border, how are we going to compete?" Now we are poised ready to come in, the whole attitude has changed. I think the success of this development is pivotal on Sunday shopping, and that is why they want it.

Mr Fletcher: As Mr Carr alluded to, we heard something in Peterborough about a development. You are right. That is not there, and is something we have to look at. As for the level playing field and the cross-border shopping issue, right now people who live in Windsor, and probably Niagara Falls, can sit in the privacy of their own homes, make a phone call across the border and have items delivered

free of charge across the border right to their homes. The Americans are very aggressive when it comes to getting after new markets. Pretty soon they may even be offering other things, such as paying your GST and delivering, and they can do that. I know that a lot of the manufacturers who are going into your factory outlet are American-owned. And what the heck, why would Americans come and buy things in Canada that cost more, and then have to pay the duty when going back across? And as a Canadian, I can buy them in the United States without even leaving the country now. So whenever the cross-border shopping issue is coming into it, I always have a problem with that, because I do not think we want to—

Mr Khan: I understand that. I think one point that you have to understand is, this development is geared to be a tourism development. It is not really geared to attract too much of a local market. And the Americans will have an excellent price advantage when they shop at this development, because not only do these manufacturers have to be competitive for Canadians, but they also have to be competitive for Americans. Right off the bat, the American has a 15% price advantage with the currency. He gets his GST back if he bothers to stop at the Revenue Canada post there and apply for it. So what is he paying? The sales tax, which he is paying anyway. But he has got that added discount when he comes across, so it is really advantageous.

That logic works for example at Oneida, which has a factory outlet store—Peter might know about it—in Niagara Falls, by Marineland. It is out in the boondocks. You can hardly find it—poor visibility. And 40% of its sales are done by Americans. It is a 1,000-square-foot store that does \$1 million a year. Pete Sanderson would love to talk to each and every one of you and tell you that. That store does \$1,000 a foot per year. And it does it successfully. He is probably one of the first tenants we are going to get signed up for this development. So you see everybody talks about this cross-border shopping issue and asks “How you are going to compete?” It is probably one of the first questions I am always asked. Why don't we just look at Mr Sanderson's store there at Oneida Silverware and see how we examine this thing? What is the rationale? It has to do with the dollar. It has to do with quality in the service and everything else.

Mr Fletcher: I would love to hear more, because I have some more to say about that, but I will not.

The Chair: Thank you very much, Mr Khan, for a very interesting presentation.

1650

UNITED FOOD AND COMMERCIAL WORKERS, LOCAL 1000

The Chair: We now have a presentation from the United Food and Commercial Workers, Patricia MacFarlane, Kevin Corporon and Andrew Faas. As you have been attending for a while, you know we have approximately a half an hour.

Mr Corporon: My name is Kevin Corporon. I am the executive vice-president of the United Food and Commercial Workers, Local 1000. We represent approximately

10,000 members in Ontario, 80% of those in the retailing industry and food retailing. Many of those represented are employed by National Grocers. With me are Patricia MacFarlane, who is the staff representative of our local union and services members in the London area as part of her responsibilities, and Mr Andrew Faas, who is the executive vice-president of National Grocers Canada, which employs a large majority of our members.

I will be brief today. We have presented, at an earlier date, a written submission. I will not go over that once again. What we want to do today is make a few statements, and we have invited Mr Faas to present first hand his views, which support ours in many areas on the impact of the legislation. There is no doubt this is a very controversial issue and has been for many years. The position of this government is clearly that it is supporting the common pause day and will not negotiate on that principle. They will, however, as has been stated, review Bill 115 if there are recommendations to be made to enforce or support their commitment to the common pause day.

Many submissions have been made with respect to the question of whether there should or should not be wide-open Sunday shopping. Certainly everybody has the right to air those views, and we respect that. Bill 115 as it is currently presented will not, in our view, in our respectful submission, meet what the government has set out to do. It will not provide that common pause day.

When it is a foregone conclusion that there will be a common pause day, should everybody be shut or should there be exemptions? With very few exceptions, the majority of those who support Sunday shopping and who oppose it will tell you that if it has to be closed, then close it all, with the few limited exceptions for essential services and so on, and this falls squarely on the issue that is before us now, Bill 115. The exemptions—the intent to allow the tourism industry to flourish, to provide the services required through the pharmacies and so on, is an intention we support.

We feel that the legislation being proposed will go far beyond that. It will create a patchwork of wide-open Sunday shopping which will be a detriment to our members, who will not only in some cases be required to work but also have their job security threatened, as will the security of the businesses forced to be closed in some communities where their competitors can be open in others. It is a very serious issue, I am sure you understand, to our membership, and we wanted to make ourselves available today for questions and, again, to ask Mr Faas to join us in a short presentation.

Mr Faas: I will keep my presentation fairly short. National Grocers, through an official, will be making a formal presentation to the committee. We are pleased to be here today with the United Food and Commercial Workers, supporting their position. First, I should outline who we are and what we do. National Grocers is the Ontario arm of Loblaw Companies Ltd and the parent company of Loblaw Supermarkets Zehrmart Ltd. We are the franchiser of Hasty Market, Mr Grocer, Your Independent Grocer, Valu-mart, Freshmart, No Frills and Fortino's. Our corporate and franchise stores are located throughout the province, in

cities and towns and villages. In the London area we operate in 11 locations.

Collectively we employ in excess of 25,000 employees. We are the largest private sector employer of unionized employees in Ontario. All of our corporate stores and distribution centres, and over 60% of our franchise operations, are covered by collective agreements.

As you may appreciate, being a federation of companies, both corporate and franchise, there are varying and different viewpoints with respect to this issue. There is consensus, however, relative to one major aspect—that there be a level playing field. To ensure level playing fields, stores should not be given a competitive advantage by being allowed to open, either through loopholes in the legislation which do not reflect its intent, or through the municipal option where trading areas overlap, or through an improper designation of a store under tourist exemption.

In the event that there is a proliferation of competitive advantages, we would have no choice but to request wide-open Sundays. This extreme position does not however undermine our overall support for a notion of a common pause day. We are fundamentally committed to the principle that Sundays should be days on which most businesses are not open and most persons do not have to work. National Grocers and its related companies appreciate the government's efforts in introducing legislation aimed at enshrining a common pause day in Ontario and detailing restrictions on both Sunday shopping and Sunday work. While we recognize that the legislation marks positive progress in this regard, our group of companies has five main concerns with respect to the proposed amendments to the act.

They are: (1) the intent of the Retail Business Holidays Act; (2) the municipal option; (3) drugstores opening on Sundays; (4) enforcement of the legislation; and (5) the definition of a retail business. We should point out again that our concerns with respect to the legislation almost exactly mirror the position and recommendations made by the United Food and Commercial Workers Union. National Grocers and its related companies have had a long history of open discourse and interaction, not only with the United Food and Commercial Workers but other bargaining agents, such as the Retail, Wholesale and Department Store Union and the Teamsters. Based on these long-standing relationships, we at National Grocers feel confident that the position put forward by us represents the best position for both retailers and the 25,000 employees we employ.

I indicated that our position almost mirrors the position and recommendations made by the United Food and Commercial Workers. Where we differ is in terms of the size limitation that was recommended under subsection 3(2) relative to size of drugstores and convenience stores that are allowed to open. We would recommend 3,500 square feet versus the recommendation of 2,400 by the UFCW. It is our belief that in the event a tourist area is designated there should be no limitations. It should be either wide open or completely shut down.

I would be happy to discuss and answer questions with respect to some aspects of the recommendations made. There may be some question relative to the history of National Grocers and our affiliated companies' involvement

with respect to this issue. It is a long history. We have been putting our positions forward through the People for Sunday Association of Canada. We have been members of the People for Sunday Association of Canada for many, many years. We have made a number of submissions to the standing committees and the all-party committee on Sunday shopping. We must admit that we have been and we still are frustrated by the legislation and the potential loopholes in interpretation and the enforcement.

Our frustrations led us to join a group called Committee for Fair Shopping out of concern as to whether or not the legislation would be there for Sunday opening, and the loopholes plugged, and the law enforced.

There were some questions raised, I know, at other hearings and I caught the tail-end of a question relative to sales increases. A lot of organizations, I am sure, asserted that they saw significant sales increases when they opened on Sundays. I must admit that initially we saw significant sales increases, but it did level off. We experienced the same type of thing when we extended hours from day shopping to evening shopping. There are only so many food dollars to go around. I would attribute any sales increase experienced during that period to the fact that a level playing field was created. So those who are indicating that they saw sales increases should look at why the sales increased. Perhaps it was not so much that they were open seven days, but because there was a level playing field during that period of time.

The whole issue of cross-border shopping you may want to ask us about. The previous presenter gave some viewpoints relative to that. Our position is that it should be considered a separate issue. Certainly in those areas where we operate in border towns Sunday shopping would help, but it would not resolve the situation and we do not believe that province-wide Sunday shopping is the answer to that specific issue.

As I indicated earlier, we will be making a formal presentation to this group tomorrow detailing the specific recommendations that are being made. So I would be happy to respond to any other questions you may have.

1700

Mr Daigeler: I must say, I find it very refreshing to see the union representatives and the employer making more or less a joint presentation. I personally think that we should strive for this kind of co-operation in other areas. I think as Canadians it is a goal that we must work for. I just do not believe in this confrontational approach that we have witnessed even at these committee hearings.

I congratulate you on doing that and obviously having worked on that co-operative relationship over many years. I think that is great and I am very pleased to see that. I was not aware we have experiences of that nature, and so close by.

I am very struck also by the position you are putting forward on behalf of National Grocers because it is so different from what we have been hearing from other large chains and retailers.

Who owns National Grocers? Is that Canadian owned?

Mr Faas: National Grocers is owned by Loblaw Companies Ltd and is the Ontario arm of Loblaw Companies.

Mr Daigeler: Are you Canadian owned? I do not even know who owns Loblaws.

Mr Faas: Loblaw Companies is owned by George Weston. It is a wholly owned Canadian organization.

Mr Daigeler: That is a very interesting presentation because, obviously, National Grocers has its own identity, very much so.

I do not know whether you were here when the chamber of commerce made its presentation, obviously very different.

Mr Faas: I caught the tail-end of that.

Mr Daigeler: It was obviously very different. Did you have any comments in that regard?

Mr Faas: I can only comment on the last question where they were talking about the sales increase.

Mr Daigeler: If I may just summarize their position, essentially they want the freedom to either stay open or closed. They are not necessarily saying everybody should stay open, but they now feel—and they acknowledge it is a change of opinion—that the retailer should have that option.

Mr Faas: Our position, obviously, is different than that. It is a historical position we have taken. Our preference is to have a common pause day. The only area that I would agree with them on is the level playing field argument.

Mr Carr: I just wanted to say it is nice to see the two groups working together on this issue. Like my colleague before, I hope that is a good sign.

One of the questions I have relates to your change in position because, as I understand, as part of the committee you were in favour. What really changed your mind? You said you were always in favour of it, but the committee was putting statistics forward saying it was better for them and also that the people did not lose their quality of life. Was there anything that really changed it for you?

Mr Faas: The position relative to our involvement with the committee?

Mr Carr: Yes, with the committee.

Mr Faas: It really stemmed from our level of frustration with the law at that time—the ambiguities, the loopholes, people taking unfair advantage of those loopholes and creating a position where they had competitive advantages. It was a level of frustration and, quite frankly, a lack of confidence in government's ability to put in proper legislation that would not be ambiguous and would also be enforceable. It was really a question mark at that time.

We have defended this position since 1972. In 1972 Loblaws was just about ready to open all of its stores out of that same frustration and by notifying, I believe it was the Conservative government at that time, they put in legislation to close it and things went well for a period of time and it deteriorated again to a point where we lost confidence as to whether proper legislation could be implemented and, very importantly, whether it could be enforced.

Mr Carr: As you know, the United Food and Commercial Workers have been very critical of this bill. They have said right along that if there are no changes they see there will be Sunday shopping in this province and, unless there are changes to the tourism exemptions and they are beefed up, what will happen is they will open. I was just

wondering, do you feel the same way too? If the bill stays the same, will we have Sunday shopping in this province?

Mr Faas: Absolutely. It has gone a long way to address the concerns but there are still far too many loopholes open which would be subject to an awful lot of interpretation. Quite frankly, I question whether the legislation, the way it is being proposed, can be properly enforced, and I think the police authorities have stated some of the question marks.

Mr Carr: The Committee for Fair Shopping, of course, had the big press conference the day our committee started, and that is actually what brought in a lot of the media. One of the things that came out was that they see there will be litigation regardless of what happens, because if they do not get what they want in a particular area and the person in a municipality next door does, they will say: "Look, they got it. We didn't. It's not fair. We're going to the courts." Most of those stores, I believe, would be covered by the 7,500-square-foot provision, so they are going to go to court over that.

Mr Faas: Yes.

Mr Carr: Do you see, with this bill, a lot of court battles coming up?

Mr Faas: I would suspect that it is going to be subject to the challenge.

Mr Fletcher: Thank you for your presentation. It is good to see a united front. I agree with what you are saying as far as the legislation is concerned right now, and that is why we are here, to possibly find out what kind of changes we can make to the legislation.

The one thing you did get at was the municipal responsibility. This morning we had the mayor from London say, when I asked the question about the municipal responsibility: "Why don't you come to each municipality and ask the municipalities to get involved as far as tourist areas are concerned, and not just leave it up to each municipality? We'd have a blanket thing across the province."

Is that something that—it would take some work, it would not happen overnight—is that something that we can possibly look at as far as tying up some of the loopholes?

Mr Faas: We have some specific recommendations to that which—

Mr Fletcher: And we will be hearing them tomorrow?

Mr Faas: You will be hearing those tomorrow, yes.

Mr Fletcher: Okay, that is great. I will wait until tomorrow. Just one other question—

Mr Faas: On that though, I do not know what the governing body is for the municipalities, the—

Mr Fletcher: The Association of Municipalities of Ontario.

Mr Faas: I believe they made a presentation to the all-party committee which gave some recommendations as well which you may find useful. I do not know whether they made a presentation to this group, but you may want to refer to the—

Mr Kormos: I have to do this fast because Mr Lessard wants to talk to you too.

Mr Lessard: Take your time.

Mr Kormos: But I still have to go fast, because there are a couple of things we have to talk about. And one is I want you to know I am a New Democrat. I am only a backbencher, but I am awful proud of my government's commitment to the common pause day. Unlike a whole lot of my colleagues, I had the pleasure of serving in opposition for some two years prior to the last election when, my God, there were only 19 of us. As a member of that opposition, I sat on the justice committee and I opposed the last government's Sunday shopping legislation. I opposed it because, among other things, it provided for municipal control over who opens and who closes. Back then I believed and my party believed that had to be under provincial control, otherwise you would have checkerboarding all over the province and there would be no consistency in standards.

I tell you, my friends, over the course of my participation in these hearings I have, on occasion, mentioned my concern that the legislation does not provide for provincial regulation of what areas are appropriately open. I have concerns about that part of the bill. I have concerns about the guidelines that designate tourist areas.

You may or may not know that before Queen's Park I used to practise a little bit of law, and it seems to me I recall winning perhaps more than my share of cases, not because my clients were necessarily not guilty but because regulations like these in this legislation, by God, you could—people can talk about a Mack truck; have you ever heard of a Euclid? Those are the big ones they use in the mines where you can walk underneath and change the oil just by reaching up with your hand.

But I have some real concerns about the guidelines and some real concerns about the municipal option. I might be in a little bit of hot water for expressing those concerns, but I ask you this because I really believe in a common pause day. I am from Welland-Thorold and I promised the people down there that was something I believed in: I believed that was the only way we could protect workers, and I believed that was important if we were going to recognize the importance of families in communities like the one I come from.

Am I wrong when I am critical of the municipal optioning and of the vague and general guidelines that are contained in the legislation as it is now?

Mr Faas: I would say that our position is closer to yours, yes. You are not alone.

Mr Kormos: If I get in trouble will you back me up?

Mr Faas: If that will help.

Mr Lessard: One very brief question: Yesterday we heard from a lawyer in the city of Windsor who is the vice-president of a grocery store that is down there. He said, "At first we were opposed to Sunday shopping, but since we've seen this flood of cars going to the United States," and now he sees these cars coming back on Sundays just loaded with groceries. They may not have originally gone over because of groceries, but that is the pattern established in Windsor in his perception now, and he feels the future of the grocery business in cross-border areas is seriously threatened as a result of that. You seem to distin-

guish between those two issues, and we try to do that too. But he is saying there are lots of people who go and buy their groceries over in the US now.

Mr Faas: Certainly a retailer in Windsor or Niagara Falls would—it would help their specific situation, but if you opened it up wide it would not answer their problem. There are more significant issues surrounding cross-border shopping than the Sunday opening issue. There is no argument that in border towns it would help. But the question is, do you resolve a limited problem with a wide-open situation? We do not see that as being the appropriate answer, and we operate at a number of locations in border communities.

Mr Lessard: You do not feel there should be any distinction between the border communities, and other communities then?

Mr Faas: If we had the preference of proper legislation that is enforced, we would agree that legislation should be universal.

The Chair: Thank you very much for a very interesting presentation, and we will look forward to the other one that you mentioned.

1710

ANGLICAN DIOCESE OF HURON

The Chair: We now have a presentation from the Anglican Diocese of Huron. Rev Morley Pinkney, Campbell Dockstader, Bill Young and Bishop Robert Townsend. We have approximately half an hour.

Canon Pinkney: I am Morley Pinkney. I am a member of the clergy of the Diocese of Huron and I am going to indicate the two people that are with me. Unfortunately, neither of the bishops that are local could be here today. Bishop Percy O'Driscoll had a very urgent matter taking him away; Rev Robert Townsend was going to take his place, but unfortunately his wife underwent surgery this afternoon, so he is not able to be here either. I have with us Mr Bill Young, who has been sort of unofficially seconded to us by the United Church this afternoon. He is an active member of the United Church in London, he is the president of Young's Jewellers, which is a chain of about 35 to 40 retail stores across Canada, and he will speak briefly in support of a common pause day as a merchant employer. And then we have Mr Cam Dockstader, who is an active Anglican layperson, who, as a lawyer, will comment specifically on one or two of the provisions of Bill 115.

I would like, before I ask Mr Young to speak, to state briefly the reasons we in our diocese support a common pause day. I might say that we speak in the name of the diocese of Huron, representing 85,000 Anglicans in the 14 counties of southwestern Ontario. We have been established since the pioneer days of our region, going back nearly 200 years, and have consistently been concerned about the quality of life of our society. Several times in recent years the annual diocesan synod of our diocese has passed resolutions on humanitarian grounds in support of a common pause day, and this is the fourth time, I believe, within a decade that we have had the privilege of coming before an all-party committee on this matter.

With regard to the reasons why we support a common pause day, and I will put this very briefly: On humanitarian grounds we desire the maintenance of Sunday as a common pause day in Ontario as something which we regard as vital for families and communities; that there be a common day each week for purposes of rest, socializing, and recreation. It is beneficial for society as a whole to be delivered once a week on a simultaneously shared basis from the demands of commercialism. A Sunday free from unnecessary work is a precious ingredient in the heritage and lifestyle of Ontario residents. We would like to see that preserved, and we feel that the government of our province has a duty to aim and succeed in that direction.

I will have a few comments to make later, but they will be, to a large extent, supportive of the legislation or, at least, the intent and spirit of it. I think that it is important, since within any church we have a lot of business people and workers within businesses, to hear from the standpoint of a merchant employer, so I would like now to have Mr Bill Young say a few words.

Mr Young: I apologize, first, that I am no public speaker, but I was asked today because we have been very vehement about not opening on Sundays. I think you all know, or should know, that the retail trade has been hit very hard during the recession. You only need to look at bankruptcies and so on to prove that. And one of the reasons we are still in business, and expect to be, is the fact that we have reduced every expense, and the major one always in retail is the expense of wages. Incidentally, we are celebrating this year our 98th birthday in business. So we have been around, we have been through other recessions. We expect to be through this one as well, but the shopping hour issue is one that has our employees very, very concerned. We have roughly 250 employees. We are in business in Ontario and the west.

There are some things you must understand that are aside from some of these points. One of them is that retail business in Canada is mainly done in malls. People think of tourist areas, of little fellows who have food places along the shores of Grand Bend or something. But the basic retail business is done in malls. The basic malls are controlled by three or four people in the whole of Canada. If you are going to be in a chain business of any kind, you have to do what they tell you, period. The main stores are controlled by Cambridge Leasehold and Cadillac Fairview, and they are tough landlords. Sunday shopping leases are written; if you want to be in there, then you have to sign that you will be open the hours that the mall decides you will be open.

1720

Now, the mall has no problem with this, simply because—perhaps you do not know, but all the services, all the advertising, all the utilities, all the security is paid for by the small merchants, and that excludes most departmental stores. So it is the small people who pay it. Why not stay open Sunday? They have nothing to lose. They do not pay any expenses. We have to support the expenses. Incidentally, for this service they charge us 15% on top of everything else to run it. Most rents are minimum rents, of

which you pay a percentage. The more business that you do, you pay more rent. They have nothing to lose. I know that we have tried to legislate against this pushing merchants and so on to open. But by innuendo, if you do not open Sundays when the rest of them open, I would hate to see you try to get a lease again, I would hate to see you try to go to one of their other malls in one of the other cities, because you have not got a hope. And that is reality.

I would like to go to our staff and tell you that every poll that we have made of our staff, some 250 people, are all opposed to Sunday shopping. I think you do a lot of talking about Sunday shopping, but I hope that you get down to the people who actually work Sundays. They do not want to. They would like to be home with their families instead of at the facility of the consumer, who has other time to shop. When we have refused to open consistently, I have more mail from our employees than I ever had before, commenting on the stand we took, even though our opposition was open. Incidentally, when we were not open, they took the business on Sunday, and Monday and Tuesday were a flop for them and ourselves. So you cannot divide seven days' business by six and expect to come out properly.

The cost will increase for our staff, there is no question about it. We are in a unique business, a service business. We are now open 72 hours. We have to employ very highly trained people, in some cases gemmologists who have studied five years. We cannot have them on duty all the time. We have a security problem when our malls are open and would have to hire extra people. We cannot hire part-timers; they do not suit our business. So the staff in our stores are dead against it.

My conclusion is that if we are to give service to customers' demands, our educated, reliable staff in 72 hours should be able to do this. Our staff morale and quality of life will definitely be eroded. It is not profitable for us to stay open seven days, for the reasons that I have given, and I think you will find the landlords will see to it that the small merchandisers and the free enterprisers of this world are going to become fewer, because they cannot compete with the big landlords and the rents they charge.

Incidentally, cross-border shopping is a bit of a problem for us. We are in places like Sarnia. We are doing good business in those areas. The recession is hurting us far more, in that particular case. I think the one question that I can get from most of our staff when they have written in to me is "Why do we have to open when the libraries, the licence bureaus, and all the other places the government runs are not open on Sunday?"

Mr Dockstader: Just a couple of comments: I heard Mr Kormos express his concern about the tourism criteria and the way that was going to operate, and I suppose, as a lawyer, I feel the same way as Mr Kormos. I also have acted for a few people in the past to do with statutes and the regulations and so forth. There is always difficulty with definitions, but it seems to me if you look at the proposed regulation and the criteria under it, it appears to be broad enough to cover most geographical areas which have any concentration at all of hotels and restaurants and malls and stores and so forth. The type of business that is covered

there, if you look at it, really look at it, surely it is broad enough to cover almost any type of retail business which is in there. It could be expanded, certainly, to do that. With a little imagination, a little argument, I think it would be very difficult to pin down in the broad way in which it is now.

Really, how are you going to prevent whole cities from in effect declaring themselves tourist areas? Every business in the area is a tourist area, and what are you going to do as a government at that stage about that? When these people, and I am not saying that it is going to be Windsor or Sarnia, but these are cross-border—where there is cross-border shopping and economic bad times, how are you going to prevent that from being done with the broad definition and the criteria you have here?

One of the ways it can be helped is to get the tourist exemption concept out of the municipalities and back in the province where it belongs.

It is the provincial government's business. It is their area of expertise. It should be their area of expertise. They should be the arbiter and final decision-maker of what it is that should be a tourist area, if what we are trying to protect is tourism in here.

You should not have it the broad way in which it is, and it should not be in the municipality's area of power to decide what is or is not a tourist area. The type of business it is, it is going to be set upon by all the individuals and the companies within its area to perhaps open. You are going to end up with checkerboarding all over, which is the last thing we need. There should be some criteria which are set out and dealt with by the provincial government itself.

The second area that bothers me a little bit is the fines. The minimum fines, as I understand them to be, are relatively low in the bill, a copy of which I have been provided with. It might well be that you consider raising those minimum limits, because the reality of it is that for a large store, in the minimums that they have down there, it is just going to be another tax to open up. You have to make it prohibitive enough. You might say, "Well, that's just the minimum amount," but that is not the way the courts look at it. In provincial offences court, if it is the first time it has happened, they are good corporate citizens, they are going to get nearer the minimum amount a lot more often before a justice of the peace than they ever are going to be hit near any maximum they have. I think you should well consider raising those minimum amounts so in fact it is a true penalty to breach the law; it is not just another licence fee to be able to practise in that regard.

Those are the two main areas. I was going to actually say a few more things, but Mr Kormos was so articulate before I sat down here. There is no point in repeating Mr Kormos's arguments.

The Chair: You might have an opportunity later on. We have about four minutes per caucus.

Mr Daigeler: Just very quickly, thank you for coming before us and presenting a rather broad-based description of how you feel, from religious to business to legal considerations. That is certainly to be appreciated, and we welcome that. I do not know whether you were here earlier when

the London Chamber of Commerce made its presentation. I am just wondering how you would be reacting to that.

Mr Young: I would suggest to you that I am going to speak to the chamber of commerce, because I was not aware that was its position. I do not know where they would get that position from. I am sorry, I just cannot understand it, because they were certainly opposed to it the last I knew. I did not know that they would come forth with that.

Mr Daigeler: They did indicate, to be fair, that there was a change of opinion, but they felt, and I questioned them on that, that there has been a quite significant shift of opinion that not just a majority but a significant majority would be in favour of giving the retailers the option. They are not saying that everybody should be open. They are saying that, with everything taken into account, it should be the retailer and the business person who should make the decision and not anyone else.

1730

Mr Young: Perhaps in my speech I missed the point that most of us do not have the option. If you are in a mall, if the mall decides you are opening, you are opening, period.

Mr Daigeler: I even asked them on that as well. They said that even in malls some stayed open and some did not here in the London area.

Mr Young: That was in the past, yes, because there was no clear-cut—the malls stayed back. But you must realize that we are in a competitive business; it makes it impossible to stay closed if your competitor is open. This is tough business, and it is tough times. I cannot understand why we all cannot get seven days' business in six and be just as happy with far less expense and a better bottom line. I would like to question the chamber of commerce on who put this forth, because I was never surveyed, and I am a member of the London Chamber of Commerce.

Mr Dockstader: Can I just respond to Mr Daigeler? I have a piece out of the chamber of commerce newspaper from 1988 by Mr Jack Mann, who was the executive vice-president and the chief executive officer of the London Chamber of Commerce. The heading is "Keep up the Fight on Sunday Shopping."

Mr Daigeler: Oh, yes, I acknowledge that, and they acknowledged it. They said there was, as by the way in other areas of the province, a significant shift of opinion among the members of the chamber. What you are saying is quite correct, and they would acknowledge that as well. All they are saying is that, "We changed our mind."

Mrs Cunningham: Welcome, all three of you. Good to see you again. I wondered, in speaking to my colleague Mr Carr, if the churches were going to be making presentations, and he has advised me that some of them have. Right now we had at least three or four groups talk to us about the common pause day, and they just did not think there was a reason for it at all, which is a very big difference in the presentations as we heard them just two summers ago, when over 9 out of 10 of the deputations that we heard clearly were in favour of a common pause day in Ontario.

I do not know whether it is society as a whole or whether people have given up on government's or politicians' ability

to listen—and that is a non-partisan comment. There seems to be a disrespect for, I think, the democratic process in my period of time in serving not only London as a school board trustee but certainly as a member of provincial Parliament. But many of us carry on in the things we believe in, and I know that is why you are here today.

I would like you to respond to two questions that I did not get answered by the chamber. One is this thing about leases, because they certainly left us with the impression that it had been taken care of, and we are hearing, I think, the opposite from you today, Bill.

The other question I had was with regard to this whole issue of the tourist exemption, because that is what we have been living with in Ontario, where stores did open in areas of our province where they relied on the tourist business for their livelihood. Maybe we are seeing a bigger need for that or maybe we are seeing an excuse for that; I do not know. If the tourist exemption is important to this government, and I think it probably is, it would surprise me if we saw them go totally one way or the other: wide-open Sunday shopping or none at all, so to speak.

I say to the chamber, let's be realistic; you are not going to see a government that is going to do one or the other. They talked about the common day of pause during their campaign; I expect they are going to stay with it. The only way they are going to be able to do that is with the tourist exemption, I feel. If you could talk a little bit about the lease, which I am confused about, and about this whole tourist exemption and how you see it working—if you see it working—I would appreciate it.

Mr Young: I can answer the one on leases. I am not specific on what you want to know, but there is very little I do not know about them, because they are 54 pages long. Fifty-three and a half are in favour of the landlord. The other little bit happens to come in there and says we are allowed to do business. The lease simply states that you have to be open the hours designated by the mall management.

Mrs Cunningham: By the what?

Mr Young: By mall management or by the landlord, I am not sure of the term. That is it. Now, in the last little bit, I think they saw that the bad publicity would be there, so they did not push it but allowed you to do what you wanted, and of course that is not what a shopping centre wants. A shopping centre is a destination point, and unless everybody is either open or shut you do not have that destination point. I do not know what other part of the lease you do not understand; I am certainly willing to answer anything. But they specifically have the power to make us open if they please. I do not think publicity-wise it would be good for them.

Mrs Cunningham: You have leases in a number of malls, do you not?

Mr Young: We have leases in all the malls, some 35 of them.

Mrs Cunningham: Thirty-five leases?

Mr Young: Yes.

Mrs Cunningham: Now, current.

Mr Young: Yes, now, current, and they were all signed long before the recession, long before any of the

problems. But they are in for 5, 8, 10,—whatever years they want to be involved.

Mrs Cunningham: Maybe we can have a clarification, because it seems to me there is a feeling that that is not a problem now, and you are telling me as a practitioner it is.

The Chair: Mr Mills does want to clarify that point. Perhaps we could do that after the other questions have been posed.

Mrs Cunningham: That is fine, as long as the deputation hears it. What about the tourist exemption, in your view? Can it work? Is it something we should be trying to tighten up? Should we be looking for a very clear definition?

Mr Young: I think it is very difficult. I think it will put things wide open eventually, because I suppose we sell some items that people consider tourist items. I do not know. I think it would be very difficult for you, I just do not know how you are going to do it. I am not a lawyer, but I know that there would be loopholes of all kinds, and they would take advantage of the loopholes. In this very competitive market and with cross-border shopping, we have to be as sharp as possible, so we would take advantage of it, probably, in some way. I am not saying we would, but I think some people would.

Mrs Cunningham: So your view, then, would be, if we go for that, we are probably looking at the provincial responsibility for any exemption, because without it, we have got the patchwork.

Mr Young: I do think you have to go on a provincial level. I really think the municipality will just throw it wide open.

Mr Kormos: Very quickly, because I know Mr Lessard wants to speak with you, maybe it is just me sensing the disdain for the fact that somehow it is just the trade unions and just the churches that are looking for a common pause day. I have no quarrel with either of them.

One of the things that has been pointed out very frequently is that—and let's not kid ourselves—the reason why Sunday is a common pause day is because of the Christian tradition that has existed in this province, in this country; similarly, that Christian tradition now coexists with a lot of other traditions, be they newer traditions, some ancient in history: Saturday as a Sabbath, Friday as a Sabbath. But I ask you, because that has been used as an argument to reject the concept of any common pause day, are you gentlemen aware of any religious or any secular philosophy which rejects the concept of a common pause day, which would not embrace the need for a day to engage in either spiritual renewal and/or the renewal of social relationships, family relationships, or the renewal, perhaps, just of your own kindred spirit with nature and the world about you? Is there anybody who is going to be offended, that you are aware of, by the concept of a common pause day and the creation and the sustenance of one?

1740

Canon Pinkney: No, I think you are absolutely right. You are sort of, by implication, answering your own question. I think it is rather interesting to note that even though the historical aegis of Sunday in particular is because of the Christian tradition in a country like Russia—now, I

know that Russia is going through enormous upheavals, and now they are having clergy of the Russian Orthodox Church once again coming on the stage, blessing political leaders and so forth. But for many years Russia was officially an atheist state, a communist state, dedicated to a secular philosophy, and yet Sunday has been the traditional day of rest continuously in Russia. So I think that rather says something about the force of tradition.

I think there has to be a day. Hopefully there will be a day. I cannot imagine there are very strong arguments in our country for turning it into Friday because we have a Muslim minority or making it Saturday because we have a Hebrew minority. I think that overwhelmingly, in a democracy, you have to take into account the fact that for the majority of people probably Sunday would be the most congenial and appropriate day. Therefore, why not stick with it? And you can do so on strictly humanitarian grounds, without bringing in religion.

Interestingly enough, in the 10 Commandments, the one that deals with the whole idea of the keeping of the Sabbath is divided into two parts: One is the day of rest principle and the other is the aspect of worship. They can be differentiated and distinguished, and I think it is the day of rest, it is the humanitarian common pause day that help to unite a society by having it function in these family and recreational ways that are ones a church can wholeheartedly support, with a religious rootage in terms of humanitarian principle, but not bringing in dogma or doctrines or any coercion with regard to worship or any of those considerations.

Mr Lessard: This has been a fascinating afternoon here in London. We have seen some interesting partnerships. We have seen the United Food and Commercial Workers make a presentation along with National Grocers, and now we are hearing from representatives together from the legal community, the business community and the religious community.

I just wanted to point out to Mr Young that I had asked the chamber this afternoon as well whether it had taken any polling of its membership in order to determine their presentation here. They were members of the government relations committee of the chamber and said they had drafted their presentation and brought it up with the board—I guess there were 21 members of the board—and that was how they decided that was going to be the presentation of the chamber. I can provide you with a copy of that if you would like to see it.

Mr Young: I hope some of them were members of the retail community who are affected.

Mr Lessard: Yes. One may have been a jeweller.

Mr Carr: I thought it might have been you.

Mr Young: No, it was not, but I hoped—because you are talking about retailers when you are talking Sunday shopping, and that is who should have been polled, not 21 members of a board.

Mr Lessard: Right. I do not know if you mentioned the business that you were in, but you mentioned the impact that it would have on your own business and the fact that you did not feel that part-time, casual workers who, we have heard, would make up the bulk of the people who would work on

Sundays—and we have been told as well that would create additional employment—but you did not think that those those types of employees would be able to adequately service the clientele in your own business. So what business are you in and why do you not think they would be able to do that?

Mr Young: Would you buy a \$5,000 diamond from somebody who just came out of the sociology course at Western university?

Mr Lessard: I guess not, no.

Mr Daigeler: You could if you could afford it.

Mr Lessard: Yes.

Mr Young: I did not mean you personally. I am sorry.

Mr Lessard: Part of that answer is due to financial considerations, I suppose.

Mr Carr: I will talk to his wife.

Mr Young: Please do. I will give you my card. No, we cannot hire staff, not only for the knowledge and so on that is necessary for our products, but also for security. We have a major security problem. It is getting worse, and we have to have knowledgeable people on staff all the time. If Sunday shopping comes, that means that our management senior personnel will have to work longer hours. There is no question about it. We just cannot open up a jewellery store that may carry anywhere from \$500 to \$1 million worth of merchandise and have college or high school students looking after it. It just does not work.

The Chair: Mr Mills, with a clarification.

Mr Mills: I would just like to speak to the legislation as it applies to the provisions requiring holiday openings. Section 5 says, "A provision in a lease or other agreement that has the effect of requiring a retail business to remain open on the holiday is of no effect even if the lease or agreement was made before the coming into force of this section." This section came into force in February 1989, just for your information, sir.

Mr Young: Yes.

Mr Mills: I know you are going to say there are ways of skirting that, but that is the legislation.

Mr Young: That is correct.

The Chair: Thank you very much, gentlemen, Rev Pinkney, Mr Young and Campbell Dockstader.

Canon Pinkney: Thank you for having us.

The Chair: Before we depart, I would like to thank all the people who have presented and the city of London for its excellent hospitality today, and to say simply that we are adjourned until nine o'clock tomorrow morning.

Mr Poirier: Thirty seconds, Mr Chair, to note that after all the weeks of travel we have done, I think there would be unanimous decision that by far this has been the best lodging of all our tour. I am not from London; nobody votes for me here. But to be honest, this was great accommodation at a great price and we had our best meal on the road in London last night.

The committee adjourned at 1746.

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